No. 10760

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
and
FEDERATION OF MALAYA, NORTH BORNEO, SARAWAK and SINGAPORE

Agreement relating to Malaysia (with annexes, including the Constitutions of the States of Sabah, Sarawak and Singapore, the Malaysia Immigration Bill and the Agreement between the Governments of the Federation of Malaya and Singapore on common market and financial arrangements). Signed at London on 9 July 1963

Agreement amending the above-mentioned Agreement. Signed at Singapore on 28 August 1963

Authentic texts of the Agreement: English and Malay.

Authentic text of the annexes: English.

Authentic text of the amending Agreement: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 21 September 1970.

AGREEMENT[1] RELATING TO MALAYSIA

The United Kingdom of Great Britain and Northern Ireland, the Federation of Malaya, North Borneo, Sarawak and Singapore;

Desiring to conclude an agreement relating to Malaysia;

Agree as follows:

Article I

The Colonies of North Borneo and Sarawak and the State of Singapore shall be federated with the existing States of the Federation of Malaya as the States of Sabah, Sarawak and Singapore in accordance with the constitutional instruments annexed to this Agreement and the Federation shall thereafter be called " Malaysia ".

Article II

The Government of the Federation of Malaya will take such steps as may be appropriate and available to them to secure the enactment by the Parliament of the Federation of Malaya of an Act in the form set out in Annex A to this Agreement and that it is brought into operation on 31st August 1963[1] (and the date on which the said Act is brought into operation is hereinafter referred to as " Malaysia Day ").

Article III

The Government of the United Kingdom will submit to Her Britannic Majesty before Malaysia Day Orders in Council for the purpose of giving the force of law to the Constitutions of Sabah, Sarawak and Singapore as States of Malaysia which are set out in Annexes B, C and D to this Agreement.

Article IV

The Government of the United Kingdom will take such steps as may be appropriate and available to them to secure the enactment by the Parliament

[1] Came into force on 16 September 1963, in accordance with article II, as amended by the Agreement of 28 August 1963 (see page 241 of this volume).

of the United Kingdom of an Act providing for the relinquishment, as from Malaysia Day, of Her Britannic Majesty's sovereignty and jurisdiction in respect of North Borneo, Sarawak and Singapore so that the said sovereignty and jurisdiction shall on such relinquishment vest in accordance with this Agreement and the constitutional instruments annexed to this Agreement.

Article V

The Government of the Federation of Malaya will take such steps as may be appropriate and available to them to secure the enactment before Malaysia Day by the Parliament of the Federation of Malaya of an Act in the form set out in Annex E to this Agreement for the purpose of extending and adapting the Immigration Ordinance, 1959, of the Federation of Malaya to Malaysia and of making additional provision with respect to entry into the States of Sabah and Sarawak; and the other provisons of this Agreement shall be conditional upon the enactment of the said Act.

Article VI

The Agreement on External Defence and Mutual Assistance between the Government of the United Kingdom and the Government of the Federation of Malaya of 12th October, 1957, [1] and its annexes shall apply to all territories of Malaysia, and any reference in that Agreement to the Federation of Malaya shall be deemed to apply to Malaysia, subject to the proviso that the Government of Malaysia will afford to the Government of the United Kingdom the right to continue to maintain the bases and other facilities at present occupied by their Service authorities within the State of Singapore and will permit the Government of the United Kingdom to make such use of these bases and facilities as that Government may consider necessary for the purpose of assisting in the defence of Malaysia, and for Commonwealth defence and for the preservation of peace in South-East Asia. The application of the said Agreement shall be subject to the provisions of Annex F to this Agreement (relating primarily to Service lands in Singapore).

Article VII

(1) The Federation of Malaya agrees that Her Britannic Majesty may make before Malaysia Day Orders in Council in the form set out in Annex G to this Agreement for the purpose of making provision for the payment of compensation and retirement benefits to certain overseas officers serving,

[1] United Nations, *Treaty Series*, vol. 285, p. 59.

immediately before Malaysia Day, in the public service of the Colony of North Borneo or the Colony of Sarawak.

(2) On or as soon as practicable after Malaysia Day, Public Officers' Agreements in the forms set out in Annexes H and I of this Agreement shall be signed on behalf of the Government of the United Kingdom and the Government of Malaysia; and the Government of Malaysia shall obtain the concurrence of the Government of the State of Sabah, Sarawak or Singapore, as the case may require, to the signature of the Agreement by the Government of Malaysia so far as its terms may affect the responsibilities or interests of the Government of the State.

Article VIII

The Governments of the Federation of Malaya, North Borneo and Sarawak will take such legislative, executive or other action as may be required to implement the assurances, undertakings and recommendations contained in Chapter 3 of, and Annexes A and B to, the Report of the Inter-Governmental Committee signed on 27th February, 1963, in so far as they are not implemented by express provision of the Constitution of Malaysia.

Article IX

The provisions of Annex J to this Agreement relating to Common Market and financial arrangements shall constitute an Agreement between the Government of the Federation of Malaya and the Government of Singapore.

Article X

The Governments of the Federation of Malaya and of Singapore will take such legislative, executive or other action as may be required to implement the arrangements with respect to broadcasting and television set out in Annex K to this Agreement in so far as they are not implemented by express provision of the Constitution of Malaysia.

Article XI

This Agreement shall be signed in the English and Malay languages except that the Annexes shall be in the English language only. In case of doubt the English text of the Agreement shall prevail.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at London this Ninth day of July, 1963, in five copies of which one shall be deposited with each of the Parties.

For the United Kingdom:

HAROLD MACMILLAN
DUNCAN SANDYS
LANSDOWNE

For the Federation of Malaya:

T. A. RAHMAN
ABDUL RAZAK
TAN SIEW SIN
V. T. SAMBANTHAN
ONG YOHE LIN
S. A. LIM

For North Borneo:

DATU MUSTAPHA BIN DATU HARUN
D. A. STEPHENS
W. K. H. JONES
KHOO SIAK CHIEW
W. S. HOLLEY
G. S. SUNDANG

For Sarawak:

P. E. H. PIKE
T. JUGAH
ABANG HAJI MUSTAPHA
LING BENG SIEW
ABANG HAJI OPENG

For Singapore:

LEE KUAN YEW
GOH KENG SWEE

ANNEX A

MALAYSIA BILL

[NOTE. *In accordance with section 3 and the First Schedule certain sections are to be inserted in, and become Articles of, the Constitution; any such section is distinguished in the text of the Act by a marginal note giving its number as an Article of the Constitution; the Articles in question are listed in order in the First Schedule.*]

TABLE OF CONTENTS

11. Decisions as to disqualification of member of either House or of Legislative Assembly.
12. State Constitutions.

Chapter 4—The Judiciary

13. Judicial power of the Federation.
14. Jurisdiction of Federal Court.
15. Constitution of Federal Court.
16. Constitution of High Courts.
17. Appointment of judges of Federal Court and of High Courts.
18. Transfer of judge of one High Court to another.
19. Qualifications of judges of Federal Court and of High Courts.
20. Oath of office of judges.
21. Provision for incapacity, etc., of Lord President or Chief Justice.
22. Application to new courts of Articles 125 to 127, 130 and 131.

TITLE II

CITIZENSHIP

Chapter 1—Citizenship by operation of law

23. Citizenship by operation of law.
24. Supplementary amendments as to citizenship by operation of law.

Chapter 2—Citizenship by registration or naturalisation, and transfer to or from Singapore

25. Citizenship by registration (wives and children of citizens).
26. Citizenship by registration (persons resident in Borneo States on Malaysia Day).
27. Citizenship by naturalisation.
28. Transfer of citizenship to or from Singapore.
29. Miscellaneous amendments as to citizenship by registration or naturalisation.

Chapter 3—Miscellaneous

30. Deprivation of citizenship (Singapore citizens, and persons becoming citizens on Malaysia Day).
31. Franchise, etc., of Singapore citizens and other citizens.
32. Liaison as to citizenship between governments of Federation and of Singapore.
33. Minor amendments.
34. Exclusion, as respects Borneo States and Singapore, of Article 22.

TITLE III

LEGISLATIVE POWERS AND ADMINISTRATIVE ARRANGEMENTS

35. Modifications for Borneo States and Singapore of distribution of legislative powers.
36. Supplements to Legislative Lists referred to in section 35.
37. Power of Parliament to extend legislative powers of States.
38. Power by order to extend legislative or executive powers of Borneo States.
39. Emergency laws.
40. Proceedings for questioning validity of federal or State law.
41. Power of Parliament to give effect to existing treaties, etc., for Borneo States and Singapore.
42. Exclusion for Borneo States and Singapore of Parliament's power to pass uniform laws about land or local government.
43. Exclusion of Borneo States and Singapore from national plans for land utilisation, local government, development, etc.
44. Application of Articles 83 to 87 to States not having a Ruler.

TITLE IV

FINANCIAL PROVISIONS

Chapter 1—Borneo States

45. Amendments of Tenth Schedule for Borneo States.
46. Special grants and assignments of revenue to Borneo States.
47. Reviews of special grants to Borneo States.

Chapter 2—Singapore

48. Financial arrangements with Singapore.

Chapter 3—General

49. Borrowing powers of Borneo States and Singapore.
50. State audits in Borneo States and Singapore.
51. State road grant in States of Malaya.

TITLE V

PUBLIC SERVICES

52. Judicial and Legal Service Commission.
53. Amendments consequential on establishment of Judicial and Legal Service Commission.

54. Branches in Borneo States and in Singapore of Judicial and Legal Service Commission.
55. Branches in each Borneo State and in Singapore of Public Services Commission.
56. Supplementary provisions as to branches of Commissions.
57. Jurisdiction of Police Force Commission over seconded members of State service in Borneo States.
58. Offices not comprised in term " public service " or not subject to Commissions.
59. Supplementary.

TITLE VI

PROTECTION OF SPECIAL INTERESTS

Chapter 1—General

60. Power to limit freedom of movement or of association, etc.

Chapter 2—Borneo States

61. Use of English and of native languages in Borneo States.
62. Special position of natives of Borneo States.
63. Restriction on extension to non-residents of right to practise before courts in Borneo States.
64. Muslim education in Borneo States.
65. Freedom of religion.
66. Safeguards for constitutional position of Borneo States.

Chapter 3—Singapore

67. Use of unofficial languages in Singapore Assembly.
68. Special position of Malays in Singapore.
69. Safeguards for constitutional position of Singapore.

TITLE VII

SUPPLEMENTARY

70. Minor and consequential amendments.
71. Operation of transitional provisions of Malaysia Act.
72. Repeals.

PART IV

TRANSITIONAL AND TEMPORARY

Chapter 1—General

73. Continuation and effect of present laws.
74. Temporary power to modify and apply present laws.

Third Schedule—Citizenship (amendment of Second Schedule to Constitution).

Fourth Schedule—Special Legislative Lists for Borneo States and Singapore.

Fifth Schedule—Additions for Borneo States to Tenth Schedule (Grants and assigned revenues) to Constitution.

Sixth Schedule—Minor and consequential amendments of Constitution.

[NOTE. *In accordance with section 3 and the First Schedule certain sections are to be inserted in, and become Articles of, the Constitution; any such section is distinguished in the text of the Act by a marginal note giving its number as an Article of the Constitution; the Articles are listed in order in the First Schedule.*]

DRAFT OF A BILL

intituled

An Act for Malaysia.

[ ]

WHEREAS on behalf of the Federation it has been agreed, among other things, that the British colonies of North Borneo and Sarawak and the State of Singapore shall be federated with the existing States of the Federation as the States of Sabah, Sarawak and Singapore, and that the name of the Federation should thereafter be Malaysia;

AND WHEREAS, to give effect to the agreement, it is necessary to amend the Constitution of the Federation so as to provide for the admission of those States and for matters connected therewith;

AND WHEREAS the Conference of Rulers has consented to the passing of this Act in so far as it amends Articles 38 and 153 of the Constitution or otherwise affects the privileges, position, honours or dignities of their Highnesses:

NOW, THEREFORE, be it enacted by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

1. This Act may be cited as the Malaysia Act, 1963. Citation.

2. Except in so far as the contrary intention appears, this Act shall come into force on the thirty-first day of August, nineteen hundred and sixty-three (in this Act referred to as "Malaysia Day"). Commencement.

Sections of Act inserted in Constitution.

3. The Constitution shall be amended as shown in the First Schedule to this Act, by inserting as Articles of the Constitution in accordance with that Schedule the sections of this Act specified in the second column, and those sections shall be read and have effect accordingly :

Provided that any Article so inserted shall have effect subject to the transitional provisions contained in Part IV of this Act.

PART II

THE STATES OF THE FEDERATION

The name, States and territories of the Federation. (Article 1).

4. (1) The Federation shall be known, in Malay and in English, by the name Malaysia.

(2) The States of the Federation shall be—

(*a*) the States of Malaya, namely, Johore, Kedah, Kelantan, Malacca, Negri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Trengganu ; and

(*b*) the Borneo States, namely, Sabah and Sarawak ; and

(*c*) the State of Singapore.

(3) The territories of each of the States mentioned in Clause (2) are the territories comprised therein immediately before Malaysia Day.

PART III

GENERAL CONSTITUTIONAL ARRANGEMENTS

TITLE I

GENERAL PROVISIONS AS TO FEDERAL AND STATE INSTITUTIONS

Chapter 1—Preliminary

Interpretation of constitutional terms.

5. In Article 160 of the Constitution, in Clause (2), there shall be inserted (in the places required by the alphabetical order and in substitution for the existing definition, if any, of the same term) the following definitions :—

" Attorney-General " means the Attorney-General of the Federation ;

" Chief Minister " and " Mentri Besar " both mean the president, by whatever style known, of the Executive Council in a State (and in particular " Chief Minister " includes the Prime Minister in Singapore) ;

" Executive Council " means the Cabinet or other body, however called, which in the government of a State corresponds, whether or not the members of it are Ministers, to the Cabinet of Ministers in the government of the Federation (and in particular includes the Supreme Council in Sarawak) ;

" Governor " means the Head of State, by whatever style known, in a State not having a Ruler (and in particular includes the Yang di-Pertua Negara in Sabah and the Yang di-Pertuan Negara in Singapore) ;

" Legislative Assembly " means the representative assembly, however called, in the Legislature of a State (and in particular includes the Council Negri in Sarawak), but except in the Eighth Schedule includes also a Legislative Council, however called ;

" member of the administration " means, in relation to the Federation, a person holding office as Minister or Assistant Minister and, in relation to a State, a person holding a corresponding office in the State or holding office as member (other than an official member) of the Executive Council, and includes in Singapore political secretaries as well as parliamentary secretaries ;

" office of profit " means any whole time office in any of the public services, and includes—

(*a*) the office of any judge of the Federal Court or of a High Court ; and

(*b*) the office of Auditor-General ; and

(*c*) the office of a member of the Election Commission, of a member (other than an *ex officio* member) of a Commission to which Part X applies, or of a member (other than an *ex officio* member) of any corresponding Commission established by the Constitution of a State ; and

(*d*) any other office not specified in Clause (3) of Article 132 which may be declared by Act of Parliament to be an office of profit.

Chapter 2—Heads of State

6. The Governors of Sabah, Sarawak and Singapore shall be members of the Conference of Rulers except for those purposes for which the Governors of Malacca and Penang are not members, and accordingly in the Fifth Schedule to the Constitution, in sections 1 and 7, for the words " Malacca and Penang " there shall, in each case, be substituted the words " States not having a Ruler ". Conference of Rulers.

7. (1) In Article 3 of the Constitution, in Clause (2) (which relates to the position of the Ruler as Head of the Muslim religion in States Religious functions.

other than Malacca and Penang), for the words " Malacca and Penang " there shall be substituted the words " States not having a Ruler ".

(2) In Clause (3) of that Article and Clause (10) of Article 42 (which provide for the Yang di-Pertuan Agong to be Head of the Muslim religion in Malacca and in Penang, and to exercise in those States the power of pardon in respect of offences tried by Muslim courts) for the words " and Penang " there shall be substituted the words " Penang and Singapore " or, as the case may be, for the words " or Penang " there shall be substituted the words " Penang or Singapore ".

(3) At the end of Article 38 of the Constitution there shall be added as Clause (7)—

> " (7) The function of the Conference of Rulers of agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole shall not extend to Sabah or Sarawak, and accordingly those States shall be treated as excluded from the references in Clause (2) of Article 3 and in this Article to the Federation as a whole."

Chapter 3—Parliament, Legislative Assemblies and State Constitutions

Increase in appointed members of Senate.

8. In Article 45 of the Constitution, in paragraph (*b*) of Clause (1) (which provides for sixteen members of the Senate to be appointed by the Yang di-Pertuan Agong), for the word " sixteen " there shall be substituted the words " twenty-two ".

Composition of House of Representatives. (Article 46).

9. (1) The House of Representatives shall consist of one hundred and fifty-nine elected members.

(2) There shall be—

(*a*) one hundred and four member from the States of Malaya ;

(*b*) sixteen members from Sabah ;

(*c*) twenty-four members from Sarawak ;

(*d*) fifteen members from Singapore.

Election Commission, and delimitation of constituencies.

10. (1) The membership of the Election Commission shall be increased by one, and accordingly in Clause (1) of Article 114 of the Constitution for the word " two " there shall be substituted the word " three ".

(2) In Article 113 of the Constitution there shall be omitted in Clause (2) the words " After the first delimitation of constituencies in accordance with Article 171 ", and there shall be added at the end the following Clauses:

> " (6) There shall be separate reviews under Clause (2) for the States of Malaya, for each of the Borneo States and for the State of Singapore, and for the purposes of this Part the

expression ' unit of review ' shall mean, for federal constituencies, the area under review and, for State constituencies, the State.

(7) Subject to Clause (3), the period for the first reviews under Clause (2) for any unit of review shall be calculated from the first delimitation of constituencies for that unit under this Constitution or under the Malaysia Act ".

Decisions as to disqualification of member of either House or of Legislative Assembly.

11. (1) At the end of Article 53 of the Constitution (which requires that on any question whether a member of either House of Parliament has become disqualified the decision of the House shall be taken) there shall be added—

" Provided that this Article shall not be taken to prevent the practice of the House postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification) " ;

and in Article 54 (which requires a casual vacancy to be filled within sixty days from the date on which it occurs) for the word " occurs " there shall be substituted the words " is established that there is a vacancy ".

(2) In the Eighth Schedule to the Constitution (which by section 8 and sub-section (5) of section 9 requires the inclusion in a State constitution of provisions like Articles 53 and 54) there shall be added at the end of section 8—

" Provided that this section shall not be taken to prevent the practice of the Assembly postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification) " ;

and in sub-section (5) of section 9 for the word " occurs " there shall be substituted the words " is established that there is a vacancy ".

State Constitutions.

12. (1) In Article 71 of the Constitution (in which Clauses (4) to (6) make provision as to the inclusion in State Constitutions of certain essential provisions set out in the Eighth Schedule) there shall be added at the end as Clauses (7) and (8):

" (7) In relation to a Borneo State—

(*a*) Clause (5) shall not apply ; but

(*b*) until the end of August, 1975, or such earlier date as the Yang di-Pertuan Agong with the concurrence of the Governor may by order direct, Clause (4) shall apply as if the reference to the modifications allowed under Clause (5) were a reference to the modifications made by the Constitution of the State as in force on Malaysia Day ;

(8) In relation to Singapore Clauses (4) to (6) shall not apply, but no enactment of the Legislature of Singapore making in the Constitution of the State amendments relating to any matter dealt with by the provisions set out in Part I of the Eighth Schedule (as it applies to Singapore) shall have effect unless—

(*a*) the amendments do not materially affect the operation of the Constitution in relation to those matters ; or

(*b*) the effect of the amendments is confined to inserting provisions so set out or provisions substantially to the same effect (whether or not in substitution for other provisions) or to removing provisions inconsistent with the provisions so set out ; or

(*c*) the enactment is approved by Act of Parliament ".

(2) In Clause (4) of Article 71 of the Constitution the words " it appears to Parliament that " shall be omitted.

(3) At the end of the Eighth Schedule to the Constitution there shall be added as section 23 the section set out in the Second Schedule to this Act.

Chapter 4—The Judiciary

Judicial power of the Federation. (Article 121).

13. (1) Subject to Clause (2) the judicial power of the Federation shall be vested in three High Courts of co-ordinate jurisdiction and status, namely—

(*a*) one in the States of Malaya, which shall be known as the High Court in Malaya and shall have its principal registry in Kuala Lumpur ; and

(*b*) one in the Borneo States, which shall be known as the High Court in Borneo and shall have its principal registry at such place in the Borneo States as the Yang di-Pertuan Agong may determine ; and

(*c*) one in the State of Singapore, which shall be known as the High Court in Singapore ;

and in such inferior courts as may be provided by federal law.

(2) The following jurisdiction shall be vested in a court which shall be known as the Federal Court and shall have its principal registry in Kuala Lumpur, that is to say,—

(*a*) exclusive jurisdiction to determine appeals from decisions of a High Court or a judge thereof (except decisions of a High Court given by a registrar or other officer of the court and appealable under federal law to a judge of the Court) ; and

(*b*) such original or consultative jurisdiction as is specified in Articles 128 and 130.

(3) Subject to any limitations imposed by or under federal law, any order, decree, judgment or process of the courts referred to in Clause (1) or of any judge thereof shall (so far as its nature permits) have full force and effect according to its tenor throughout the Federation, and may be executed or enforced in any part of the Federation accordingly; and federal law may provide for courts in one part of the Federation or their officers to act in aid of courts in another part.

(4) In determining where the principal registry of the High Court in Borneo is to be, the Yang di-Pertuan Agong shall act on the advice of the Prime Minister, who shall consult the Chief Ministers of the Borneo States and the Chief Justice of the High Court.

Jurisdiction of Federal Court. (Article 128).

14. (1) The Federal Court shall, to the exclusion of any other court, have jurisdiction to determine—

(*a*) any question whether a law made by Parliament or by the Legislature of a State is invalid on the ground that it makes provision with respect to a matter with respect to which Parliament or, as the case may be, the Legislature of the State has no power to make laws; and

(*b*) disputes on any other question between States or between the Federation and any State.

(2) Without prejudice to any appellate jurisdiction of the Federal Court, where in any proceedings before another court a question arises as to the effect of any provision of this Constitution, the Federal Court shall have jurisdiction (subject to any rules of court regulating the exercise of that jurisdiction) to determine the question and remit the case to the other court to be disposed of in accordance with the determination.

(3) The jurisdiction of the Federal Court to determine appeals from a High Court or a judge thereof shall be such as may be provided by federal law.

Constitution of Federal Court. (Article 122).

15. (1) The Federal Court shall consist of a president of the Court (to be styled "the Lord President of the Federal Court"), of the Chief Justices of the High Courts and, until Parliament otherwise provides, of two other judges.

(2) A judge of a High Court other than the Chief Justice may sit as a judge of the Federal Court where the Lord President considers that the interests of justice so require, and the judge shall be nominated for the purpose (as occasion requires) by the Lord President.

Constitution of High Courts. (Article 122A).

16. (1) Each of the High Courts shall consist of a Chief Justice and not less than four other judges; but the number of other judges shall not, until Parliament otherwise determines, exceed—

(*a*) in the High Court in Malaya, twelve; and

(*b*) in the High Court in Borneo, eight; and

(*c*) in the High Court in Singapore, eight.

(2) Any person qualified for appointment as a judge of a High Court may sit as a judge of that court, if designated for the purpose (as occasion requires) in accordance with Article 122B.

(3) For the despatch of business of the High Court in Borneo in an area in which a judge of the court is not for the time being available to attend to business of the court, the Yang di-Pertuan Agong acting on the advice of the Lord President of the Federal Court, or for an area within either State the Governor of the State acting on the advice of the Chief Justice of the court, may by order appoint to be judicial commissioner in that area for such period or for such purposes as may be specified in the order an advocate or person professionally qualified to be admitted an advocate of the court.

(4) Subject to any limitations or conditions imposed by the order appointing him, a judicial commissioner shall have power, in the area for which he is appointed, to perform such functions of a judge of the High Court in Borneo as appear to him to require to be performed without delay; and anything done by a judicial commissioner when acting in accordance with his appointment shall have the same validity and effect as if done by a judge of that court, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of that court.

Appointment of judges of Federal Court and of High Courts. (Article 122B).

17. (1) The Lord President of the Federal Court, the Chief Justices of the High Courts and (subject to Article 122C) the other judges of the Federal Court and of the High Courts shall be appointed by the Yang di-Pertuan Agong, acting on the advice of the Prime Minister, after consulting the Conference of Rulers.

(2) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President of the Federal Court, the Prime Minister shall consult the Lord President.

(3) Before tendering his advice as to the appointment under Clause (1) of the Chief Justice of a High Court, the Prime Minister shall consult the Chief Justice of each of the High Courts and, if the appointment is to the High Court in Borneo or in Singapore, the Chief Minister of each of the Borneo States or of Singapore, as the case may be.

(4) Before tendering his advice as to the appointment under Clause (1) of any other judge, the Prime Minister shall consult, if the appointment is to the Federal Court, the Chief Justices of all the High Courts

and, if the appointment is to one of the High Courts, the Chief Justice of that court.

(5) This Article shall apply to the designation of a person to sit as judge of a High Court under Article 122A (2) as it applies to the appointment of a judge of that court other than the Chief Justice.

Transfer of judge of one High Court to another. (Article 122C).

18. Article 122B shall not apply to the transfer to a High Court, otherwise than as Chief Justice, of a judge of another High Court other than the Chief Justice; and such a transfer may be made by the Yang di-Pertuan Agong, on the recommendation of the Lord President of the Federal Court, after consulting the Chief Justices of the two High Courts.

Qualifications of judges of Appeals Court and of High Courts. (Article 123).

19. A person is qualified for appointment under Article 122B as a judge of the Federal Court or as a judge of any of the High Courts if—

(*a*) he is a citizen; and

(*b*) for the ten years preceding his appointment he has been an advocate of those courts or any of them or a member of the judicial and legal service of the Federation or of the legal service of a State, or sometimes one, and sometimes another.

Oath of office of judges. (Article 124).

20. (1) The Lord President of the Federal Court shall before exercising the functions of his office take and subscribe the oath of office and allegiance set out in the Sixth Schedule, and shall do so in the presence of the Yang di-Pertuan Agong.

(2) A judge of the Federal Court or a High Court, other than the Lord President of the Federal Court, shall before exercising the functions of a judge take and subscribe that oath in relation to his judicial duties in whatever office, and, having done so, shall not be required to take that oath again on appointment or transfer to another judicial office, not being that of Lord President.

(3) A person taking the oath on becoming Chief Justice of a High Court shall do so in the presence of the senior judge available of that High Court, unless he takes it in accordance with Clause (4) as a judge of the Federal Court.

(4) Subject to Clause (3), a person taking the oath on becoming a judge of the Federal Court shall do so in the presence of the Lord President or, in his absence, the next senior judge available of the Federal Court.

(5) A person taking the oath on becoming a judge of a High Court (but not Chief Justice) shall do so in the presence of the Chief Justice of that court or, in his absence, the next senior judge available of that court.

Provision for incapacity, etc. of Lord President or Chief Justice. (Article 131A).

21. (1) Any provision made by federal law for the functions of the Lord President of the Federal Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of the Federal Court may extend to his functions under this Constitution.

(2) Any provision made by federal law for the functions of the Chief Justice of a High Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of that court may extend to his functions under this Constitution other than functions as judge of the Federal Court.

Application to new courts of Articles 125 to 127, 130 and 131.

22. (1) Articles 125 to 127, 130 and 131 of the Constitution shall be amended in accordance with the following subsections.

(2) In Article 125 (tenure of office and remuneration of judges)—

(*a*) there shall, in all places except in Clause (4), for the words " Supreme Court " and the words " Chief Justice " respectively be substituted the words " Federal Court " and the words " Lord President " ;

(*b*) in Clause (4)—

(i) after the word " judge " there shall be inserted the words " of the Federal Court or a High Court, or have before Malaysia Day held office as judge " ; and

(ii) for the words from " and shall " onwards there shall be substituted the words " and shall be presided over by the member first in the following order, namely, the Lord President of the Federal Court, the Chief Justices according to their precedence among themselves, and other members according to the order of their appointment to an office qualifying them for membership (the older coming before the younger of two members with appointments of the same date) " ;

(*c*) in Clause (5) for the words " or the Prime Minister " there shall be substituted the words " and, in the case of any other judge ".

(3) At the end of Article 125 there shall be added as a new Clause (9)—

" (9) This Article shall apply to a judge of a High Court as it applies to a judge of the Federal Court, except that the Yang di-Pertuan Agong before suspending under Clause (5) a judge of a High Court other than the Chief Justice shall consult the Chief Justice of that Court instead of the Lord President of the Federal Court."

(4) In Article 126 (power to punish for contempt) and in Article 127 (restriction on Parliamentary discussion) for the words " Supreme

Court" there shall, in each case, be substituted the words "Federal Court or a High Court".

(5) In Article 130 (advisory jurisdiction of Supreme Court as to interpretation of Constitution) for the words "Supreme Court" there shall, in both places, be substituted the words "Federal Court".

(6) In Article 131 (appeals from Supreme Court) in Clause (1) for the words "Supreme Court" there shall be substituted the words "Federal Court".

TITLE II

CITIZENSHIP

Chapter 1—Citizenship by operation of law

23. (1) Subject to the provisions of this Part, the following persons are citizens by operation of law, that is to say:— Citizenship by operation of law. (Article 14).

(*a*) every person born before Malaysia Day who is a citizen of the Federation by virtue of the provisions contained in Part I of the Second Schedule; and

(*b*) every person born on or after Malaysia Day, and having any of the qualifications specified in Part II of the Second Schedule; and

(*c*) every citizen of Singapore.

(2) Subject to the provisions of this Part, provision with respect to citizenship of Singapore may be made by the constitution of that State, and may be amended by laws passed by the Legislature of that State and approved by Act of Parliament.

(3) Citizenship of Singapore shall not be severable from citizenship of the Federation, but a Singapore citizen by the loss of either shall lose the other also (subject to the provision made by this Part for the enrolment of a Singapore citizen as a citizen who is not a Singapore citizen).

24. (1) At the beginning of the Second Schedule to the Constitution there shall be inserted as Parts I and II respectively the provisions contained in Parts I and II of the Third Schedule to this Act; and accordingly— Supplementary amendments as to citizenship by operation of law.

(*a*) sections 1 to 21 of the Second Schedule to the Constitution shall become Part III of it, and (save as otherwise provided by this Act) after the words "Part III", wherever occurring in those sections, there shall be inserted the words "of this Constitution"; and

(*b*) in Article 31 of the Constitution before the words "the Second Schedule" there shall be inserted the words "Part III

of ", and in Article 159, in Clause (4) (*a*), for the words " the Second " there shall be substituted the words " Part III of the Second or to the ".

(2) In the Second Schedule to the Constitution, after section 19 in Part III, there shall be inserted as sections 19A, 19B and 19C the sections so numbered in Part III of the Third Schedule to this Act.

(3) In Article 30 of the Constitution, in Clause (2), for the words " this Article " there shall be substituted the words " Clause (1) ", and at the end of the Article there shall be added as Clauses (3) and (4)—

" (3) For the purpose of determining whether a person was born a citizen of the Federation, any question whether he was born a citizen of another country shall be decided by the Federal Government, whose certificate thereon (unless proved to have been obtained by means of fraud, false representation or concealment of a material fact) shall be conclusive; and this Clause shall apply to questions arising under the Constitution of the State of Singapore as well as to questions arising under this Constitution.

(4) Any certificate issued under Clause (1) may state that the person to whom it relates is or is not a Singapore citizen, and Clause (2) shall apply accordingly; and if the Constitution of the State of Singapore provides for the government of the State to issue certificates of Singapore citizenship, Clause (2) shall apply in relation to a certificate issued under that provision as it applies to a certificate issued under Clause (1)."

Chapter 2—Citizenship by registration or naturalisation, and transfer to or from Singapore

Citizenship by registration (wives and children of citizens). (Article 15).

25. (1) Subject to Article 18, any married woman whose husband is a citizen, but not a Singapore citizen, is entitled, upon making application to the Federal Government, to be registered as a citizen if the marriage was subsisting and the husband a citizen at the beginning of October, 1962, or if she satisfies the Federal Government—

(*a*) that she has resided in the Federation outside Singapore throughout the two years preceding the date of the application, and intends to do so permanently; and

(*b*) that she is of good character.

(2) Subject to Article 18, the Federal Government may cause any person under the age of twenty-one years of whose parents one at least is (or was at death) a citizen, but not a Singapore citizen, to be registered as a citizen upon application made to the Federal Government by his parent or guardian.

(3) Subject to Article 18, a person under the age of twenty-one years who was born before the beginning of October, 1962, and whose father

is (or was at his death) a citizen, but not a Singapore citizen, and was also a citizen at the beginning of that month (if then alive), is entitled upon application made to the Federal Government by his parent or guardian, to be registered as a citizen if the Federal Government is satisfied that he is ordinarily resident in the Federation outside Singapore and is of good character.

(4) For the purposes of Clause (1) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore.

(5) The reference in Clause (1) to a married woman is a reference to a woman whose marriage has been registered in accordance with any written law in force in the Federation, including any such law in force before Merdeka Day, or with any written law in force before Malaysia Day in the territories comprised in the Borneo States or Singapore :

Provided that this Clause shall not apply where the woman applies to be registered as a citizen before the beginning of September, 1965, or such later date as may be fixed by order of the Yang di-Pertuan Agong, and is at the date of the application ordinarily resident in the Borneo States or Singapore.

(6) In Clause (1) the words "outside Singapore" shall not have effect in the case of a woman whose husband is a citizen by naturalisation under Clause (2) of Article 19.

Citizenship by registration (persons resident in Borneo States on Malaysia Day). (Article 16A).

26. Subject to Article 18, any person of or over the age of eighteen years who is on Malaysia Day, ordinarily resident in a Borneo State is entitled, upon making application to the Federal Government before September, 1971, to be registered as a citizen if he satisfies the Federal Government—

(*a*) that he has resided before Malaysia Day in the territories comprised in these States and after Malaysia Day in the Federation outside Singapore for periods which amount in the aggregate to not less than seven years in the ten years immediately preceding the date of the application, and which include the twelve months immediately preceding that date ;

(*b*) that he intends to reside permanently in the Federation outside Singapore ;

(*c*) that he is of good character ; and

(*d*) except where the application is made before September, 1965, and the applicant has attained the age of forty-five years at the date of the application, that he has a sufficient knowledge of the Malay language or the English language or, in the case of an applicant ordinarily resident in Sarawak, the Malay language, the English language or any native language in current use in Sarawak.

Citizenship by naturalisation. (Article 19).

27. (1) Subject to Clauses (7) and (9), the Federal Government may, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalisation to that person if satisfied—

(a) that—

(i) he has resided in the Federation outside Singapore for the required periods and intends, if the certificate is granted, to do so permanently; or

(ii) he has resided in Singapore for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(2) Subject to Clause (9), the Federal Government may, in such special circumstances as it thinks fit, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalisation to that person if satisfied—

(a) that he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(3) The periods of residence in the Federation or the relevant part of it which are required for the grant of a certificate of naturalisation are periods which amount in the aggregate to not less than ten years in the twelve years immediately preceding the date of the application for the certificate, and which include the twelve months immediately preceding that date.

(4) For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore; and for purposes of Clause (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation.

(5) A person to whom a certificate of naturalisation is granted shall be a citizen by naturalisation from the date on which the certificate is granted.

(6) A person to whom a certificate of naturalisation is granted shall be a Singapore citizen if but only if the certificate is granted by virtue of paragraph (a) (ii) of Clause (1).

(7) A certificate of naturalisation as a Singapore citizen shall not be granted without the concurrence of the government of Singapore.

(8) Any application for naturalisation as a citizen of Singapore which has been made but not disposed of before Malaysia Day shall as from that day be treated as if it had been an application duly

made for naturalisation under this Article, and as if anything done in connection therewith before that day under or for the purposes of the law of Singapore had been duly done under or for the purposes of this Article.

(9) No certificate of naturalisation shall be granted to any person until he has taken the oath set out in the First Schedule.

28. (1) The Federal Government may, upon application made by any Singapore citizen of or over the age of twenty-one years, enrol him as a citizen who is not a Singapore citizen, if the Federal Government is satisfied that, had his application been for the grant under Article 19 of a certificate of naturalisation as a citizen who is not a Singapore citizen, the conditions of paragraphs (*a*) (i), (*b*) and (*c*) of Clause (1) of that Article for the grant of the certificate would be fulfilled.

Transfer of citizenship to or from Singapore. (Article 19A).

(2) In relation to Singapore citizens Articles 15 and 15A shall apply to entitle or allow them to be enrolled as citizens who are not Singapore citizens, in the same way as those Articles apply, in relation to persons who are not citizens, to entitle or allow them to be registered as citizens, except that references to Article 18 shall not apply, nor shall Clause (6) of Article 15.

(3) A citizen enrolled as being or not being a Singapore citizen by virtue of this Article or by virtue of any corresponding provision in the Constitution of the State of Singapore shall be or not be a Singapore citizen accordingly from the day on which he is so enrolled.

(4) Where a person has been enrolled under this Article as a citizen who is not a Singapore citizen, and the Federal Government is satisfied that the enrolment—

(*a*) was obtained by means of fraud, false representation or the concealment of any material fact; or

(*b*) was effected by mistake;

the Federal Government may cancel the enrolment:

Provided that Article 27 shall apply in relation to the cancellation as it applies in relation to an order under Article 24, 25 or 26 depriving a person of citizenship.

(5) Where a person's enrolment as a citizen who is not a Singapore citizen is cancelled under paragraph (*a*) of Clause (4), and in consequence of that enrolment a child of that person had also been enrolled as such a citizen pursuant to Clause (2) of Article 15 as applied by this Article, the Federal Government may also cancel the child's enrolment unless the child has attained the age of twenty-one.

(6) Where under this Article or under any provision of the Constitution of the State of Singapore a person's enrolment as a citizen of either description is cancelled, that shall not discharge him from liability in respect of anything done or omitted before the cancellation,

but except as regards anything so done or omitted he shall revert to his former status as a citizen.

Miscellaneous amendments as to citizenship by registration or naturalisation.

29. (1) In Article 16 of the Constitution (which provides for the registration as citizens of certain persons born in the Federation before Merdeka Day) in paragraph (*a*) after the words " resided in the Federation " there shall be inserted the words " outside Singapore ", and in paragraph (*b*) for the words " to reside permanently therein " there shall be substituted the words " to do so permanently ".

(2) Article 18 of the Constitution (which makes general provision as to registering persons as citizens under Article 15 or 16) shall be amended as follows:

(*a*) in Clause (1) for the words " Article 15 or 16 " and in Clauses (2) and (3) for the words " either of the said Articles " there shall in each case be substituted the words " this Constitution " ; and

(*b*) in Clause (2) after the words " deprived of citizenship under this Constitution " there shall be inserted the words " or the the Constitution of the State of Singapore ".

(3) In Article 20 of the Constitution (which, until the end of January, 1964, makes special provision for the naturalisation of members of the Federation forces), in the words " to reside permanently in the Federation " in paragraph (*b*) of Clause (1), the words " States of Malaya " shall be substituted for the word " Federation ".

(4) In Article 26A of the Constitution (under which a child may be deprived of citizenship on his parent losing citizenship if the child was registered as a citizen pursuant to Clause (2) of Article 15) for the words " Clause (2) of Article 15 " there shall be substituted the words " this Constitution or the Constitution of the State of Singapore, and was so registered as being the child of that person or of that person's wife or husband ".

Chapter 3—Miscellaneous

Deprivation of citizenship (Singapore citizens and persons becoming citizens on Malaysia Day). (Article 28A).

30. (1) For the purposes of Articles 24, 25, 26 and 26A a person who is a citizen by operation of law as having the status of a Singapore citizen shall be treated—

(*a*) as a citizen by registration, if he acquired that status by registration, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by registration ; and

(*b*) as a citizen by naturalisation, if he acquired that status by naturalisation, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by naturalisation ;

and references in those Articles to the registration or naturalisation of a citizen shall be construed accordingly.

(2) For the purposes of Articles 24, 25, 26 and 26A a person who on Malaysia Day becomes a citizen by operation of law because immediately before that day he has the status of a citizen of the United Kingdom and Colonies shall be treated—

(*a*) as a citizen by registration if he acquired that status by registration ; and

(*b*) as a citizen by naturalisation if he acquired that status by or in consequence of naturalisation ;

and references in those Articles to the registration or naturalisation of a citizen shall be construed accordingly.

(3) Where a woman is under this Article to be treated as a citizen by registration, and the status in consequence of which she is to be so treated was acquired by her by virtue of marriage, then for purposes of Clause (4) of Article 24 and Clause (2) of Article 26 she shall be treated as a citizen by registration under Clause (1) of Article 15.

(4) Where a person born before Malaysia Day is under this Article to be treated as a citizen by registration by virtue of a connection with a Borneo State or with Singapore and he was not born in the territories comprised in the Borneo States or, as the case may be, in the State of Singapore, Article 25 shall apply to him as if he were a citizen by registration under Article 16A or 17.

(5) Notwithstanding that a person is under this Article to be treated as a citizen by naturalisation, he shall not be deprived of his citizenship under Article 25 if he was born before Malaysia Day in the territories comprised in the Borneo States and is to be so treated by virtue of a status acquired by or in consequence of naturalisation in those territories.

(6) Without prejudice to the foregoing Clauses, where on Malaysia Day a person becomes a citizen by operation of law in virtue of any status possessed by him immediately before that day, but he was liable in respect of things done before that day to be deprived of that status under the law relating thereto, then the Federal Government may by order deprive him of his citizenship, if proceedings for that purpose are begun before September, 1965 ; but Clause (2) of Article 26B and, subject to Clause (7), Article 27 shall apply to an order under this Clause as they apply to an order under Article 25.

(7) Where a person is liable to be deprived of citizenship under Clause (6) and proceedings had before Malaysia Day been begun to deprive him of the status in virtue of which he acquired his citizenship, those proceedings shall be treated as proceedings to deprive him of citizenship under that Clause, and shall be continued as such ; but they shall be continued in accordance with the law relating to that status immediately before Malaysia Day, and the functions of the Federal Government in relation thereto shall be delegated to such authority of the State in question as the Federal Government may determine.

Franchise, etc. of Singapore citizens and other citizens. (Article 30A).

31. (1) Notwithstanding anything in Article 47, a Singapore citizen is not qualified to be an elected member of either House of Parliament except as a member for or from Singapore; and a citizen who is not a Singapore citizen is not qualified to be a member of either House for or from Singapore.

(2) A Singapore citizen shall not be qualified to be an elected member of the Legislative Assembly of any State other than Singapore, and a citizen who is not a Singapore citizen shall not be qualified to be a member of the Legislative Assembly of Singapore.

(3) Notwithstanding anything in Article 119, a citizen is not entitled to vote in a constituency in any election to the House of Representatives or a Legislative Assembly if—

(*a*) the constituency is not in the State of Singapore and he is on the qualifying date (as defined in that Article) a Singapore citizen; or

(*b*) if the constituency is in the State of Singapore and he is not on that date a Singapore citizen.

(4) Any election of a person to either House of Parliament or to a Legislative Assembly contrary to Clause (1) or (2) shall be void; and if a member of either House or of a Legislative Assembly (not being an appointed member) changes his status as being or not being a Singapore citizen, his seat shall become vacant.

Liaison as to citizenship between governments of Federation and of Singapore. (Article 30B).

32. (1) Where under this Constitution a person becomes a Singapore citizen by naturalisation, or is enrolled as a citizen who is not a Singapore citizen, or being a Singapore citizen renounces or is deprived of his citizenship, or where a certificate of citizenship or other certificate is issued under Article 30 in relation to citizenship of Singapore, the Federal Government shall notify the government of Singapore of that fact.

(2) Where under the Constitution of the State of Singapore a person becomes a Singapore citizen by registration, or is enrolled as a Singapore citizen, or is deprived of his citizenship, or where a certificate of citizenship is issued under that Constitution, the government of Singapore shall notify the Federal Government of that fact.

Minor amendments.

33. (1) In Article 24 of the Constitution the words "at any time after Merdeka Day" in both places, and in Article 25 the words "whether beginning before, on or after Merdeka Day" in Clause (2), shall be omitted; and in Article 28 (which makes special provision as to the termination of citizenship of persons becoming citizens on Merdeka Day) there shall be added at the end as a new Clause (3)—

"(3) A person who on Merdeka Day became a citizen by operation of law as having been a citizen of the Federation immediately before that day shall not be deprived of citizenship

under Clause (1) or (2) of Article 24 by reason of anything done on or before that day; but in the case of any such person Clause (2) of Article 25 shall apply equally in relation to a period of residence in foreign countries beginning before Merdeka Day and in relation to such a period beginning on or after that day."

(2) Article 25 of the Constitution (which provides for deprivation of citizenship for disloyalty, etc.) shall be amended as follows:

(*a*) for the words "Article 17" there shall in all places be substituted the words "Article 16A or 17";

(*b*) in Clause (1A) the words from "after" to "later, and" shall be omitted, and there shall be added at the end of the Clause the proviso—

"Provided that a person shall not be deprived of citizenship under this Clause by reason of anything done before the beginning of October, 1962, notwithstanding that he was at the time a citizen";

(*c*) in Clause (2) for the words "Malayan consulate" in paragraph (*b*) there shall be substituted the words "consulate of the Federation".

(3) In the Second Schedule to the Constitution there shall be made, in the provisions which by virtue of this Act constitute Part III of that Schedule, the amendments provided for by Part IV of the Third Schedule to this Act.

34. In Article 22 of the Constitution (which enables Parliament by law to determine what persons are to be citizens by reason of a connection with a territory admitted to the Federation in pursuance of Article 2) after the words "admitted to the Federation" there shall be inserted the words "after Malaysia Day". Exclusion, as respects Borneo States and Singapore, of Article 22.

TITLE III

LEGISLATIVE POWERS AND ADMINISTRATIVE ARRANGEMENTS

35. (1) In the case of the Borneo States and Singapore— Modifications for Borneo States and Singapore of distribution of legislative powers. (Article 95B).

(*a*) the appropriate supplement to List II set out in the Ninth Schedule shall be deemed to form part of the State List, and the matters enumerated therein shall be deemed not to be included in the Federal List or Concurrent List; and

(*b*) the appropriate supplement to List III set out in the Ninth Schedule shall, subject to the State List, be deemed to form part of the Concurrent List, and the matters enumerated therein shall be deemed not to be included in the Federal List (but not so as to affect the construction of the State List, where it refers to the Federal List).

(2) Where by virtue of Clause (1) an item is included in the Concurrent List for a State for a period only, the expiration or termination of that period shall not affect the continued operation of any State

law passed by virtue of the item, save as provided by federal or State law.

(3) The Legislature of a Borneo State may also make laws for imposing sales taxes, and any sales tax imposed by State law in a Borneo State shall be deemed to be among the matters enumerated in the State List and not in the Federal List; but—

(*a*) there shall not in the charging or administration of a State sales tax be any discrimination between goods of the same description according to the place in which they originate; and

(*b*) the charge for any federal sales tax shall be met out of sums collected from a person liable for that tax before the charge for a State sales tax.

Supplements to Legislative Lists referred to in section 35.

36. The Ninth Schedule to the Constitution shall be amended by inserting at the end of Lists II and III respectively the supplements to those Lists set out in the Fourth Schedule to this Act.

Power of Parliament to extend legislative powers of States. (Article 76A).

37. (1) It is hereby declared that the power of Parliament to make laws with respect to a matter enumerated in the Federal List includes power to authorise the Legislatures of the States or any of them, subject to such conditions or restrictions (if any) as Parliament may impose, to make laws with respect to the whole or any part of that matter.

(2) Notwithstanding Article 75, a State law made under authority conferred by Act of Parliament as mentioned in Clause (1) may, if and to the extent that the Act so provides, amend or repeal (as regards the State in question) any federal law passed before that Act.

(3) Any matter with respect to which the Legislature of a State is for the time being authorised by Act of Parliament to make laws shall for purposes of Articles 79, 80 and 82 be treated as regards the State in question as if it were a matter enumerated in the Concurrent List.

Power by order to extend legislative or executive powers of Borneo States. (Article 95C).

38. (1) Subject to the provisions of any Act of Parliament passed after Malaysia Day, the Yang di-Pertuan Agong may by order make as respects a Borneo State any such provision as may be made by Act of Parliament—

(*a*) for authorising the Legislature of the State to make laws as mentioned in Article 76A; or

(*b*) for extending the executive authority of the State, and the powers or duties of any authority of the State, as mentioned in Clause (4) of Article 80.

(2) An order made by virtue of paragraph (*a*) of Clause (1) shall not authorise the Legislature of a State to amend or repeal an Act of Parliament passed after Malaysia Day, unless the Act so provides.

(3) Clause (3) of Article 76A and Clause (6) of Article 80 shall apply in relation to an order under paragraph (*a*) and paragraph (*b*) respectively of Clause (1) of this Article as they apply in relation to an Act of Parliament.

(4) Where an order under this Article is revoked by a later order, the later order may include provision for continuing in force (generally or to such extent or for such purposes as the order may specify) any State law passed by virtue of the earlier order or any subsidiary legislation made or thing done under any such State law, and from the coming into operation of the later order any State law thereby continued in force shall have effect as federal law:

Provided that no provision shall be continued in force by virtue of this Clause if or in so far as it could not have been made by Act of Parliament.

(5) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.

39. (1) In Article 150 of the Constitution (which makes special provision for legislation in the event of the Yang di-Pertuan Agong being satisfied of the existence of a grave emergency whereby the security or economic life of the Federation or of any part thereof is threatened, whether by war or external aggression or internal disturbance) there shall be omitted in Clause (1) the words " whether by war or external aggression or by internal disturbance ". Emergency laws.

(2) In that Article for Clauses (5) and (6) there shall be substituted the following Clauses (5), (6) and (6A):

> " (5) Subject to Clause (6A), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter, if it appears to Parliament that the law is required by reason of the emergency; and Article 79 shall not apply to a Bill for such a law or an amendment to such a Bill, nor shall any provision of this Constitution or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into force of a law after it is passed or the presentation of a Bill to the Yang di-Pertuan Agong for his assent.
>
> (6) Subject to Clause (6A), no provision of any ordinance promulgated under this Article, and no provision of any Act of Parliament which is passed while a Proclamation of Emergency is in force and which declares that the law appears to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution.
>
> (6A) Clause (5) shall not extend the powers of Parliament with respect to any matter of Muslim law or the custom of the Malays, or with respect to any matter of native law or

custom in a Borneo State; nor shall Clause (6) validate any provision inconsistent with the provisions of this Constitution relating to any such matter or relating to religion, citizenship, or language."

Proceedings for questioning validity of federal or State law.

40. In Article 4 of the Constitution, in Clause (3) (under which a law may not be questioned as going beyond the powers of Parliament or of the State Legislature as the case may be, except in proceedings between the Federation and a State or States) after the word "except" there shall be inserted the words "in proceedings for a declaration that the law is invalid on that ground or"; and at the end of the Article there shall be added as a new Clause (4)—

"(4) Proceedings for a declaration that a law is invalid on the ground mentioned in Clause (3) (not being proceedings falling within paragraph (*a*) or (*b*) of the Clause) shall not be commenced without the leave of a judge of the Federal Court; and the Federation shall be entitled to be a party to any such proceedings, and so shall any State that would or might be a party to proceedings brought for the same purpose under paragraph (*a*) or (*b*) of the Clause."

Power of Parliament to give effect to existing treaties, etc. for Borneo States and Singapore.

41. In Article 169 of the Constitution (which extends to certain pre-Merdeka obligations of the United Kingdom the power of Parliament to legislate for implementing international obligations of the Federation) there shall be added at the end as paragraph (*c*)—

"(*c*) in relation to the Borneo States and to Singapore paragraphs (*a*) and (*b*) shall apply with the substitution of references to Malaysia Day for the references to Merdeka Day and of references to the territories comprised in those States or any of them for the references to the Federation or any part thereof."

Exclusion for Borneo States and Singapore of Parliament's power to pass uniform laws about land or local government. **(Article 95D).**

42. (1) Subject to Clause (2), in relation to a Borneo State and in relation to Singapore, Clause (4) of Article 76 shall not apply, nor shall paragraph (*b*) of Clause (1) of that Article enable Parliament to make laws with respect to any of the matters mentioned in Clause (4) of that Article.

(2) This Article shall cease to have effect in the case of Singapore if Parliament with the concurrence of the Governor so provides.

Exclusion of Borneo States and Singapore from national plans for land utilisation, local government, development, etc. **(Article 95E).**

43. (1) In relation to a Borneo State and in relation to Singapore, Articles 91, 92, 94 and 95A shall have effect subject to the following Clauses.

(2) Subject to Clause (5), under Article 91 and under Article 95A the State government shall not be required to follow the policy formulated by the National Land Council or by the National Council for Local Government, as the case may be, but the representative of the State shall not be entitled to vote on questions before the Council.

(3) Under Article 92 no area in the State shall be proclaimed a development area for the purposes of any development plan without the concurrence of the Ruler or Governor.

(4) Subject to Clause (5), under Clause (1) of Article 94 (under which in respect of matters in the State List the Federation may conduct research, give advice and technical assistance, etc.) the agricultural and forestry officers of a Borneo State shall consider, but shall not be required to accept, professional advice given to the government of the State.

(5) Clause (2) shall cease to apply—

(*a*) as regards Article 91, to Singapore if Parliament so provides with the concurrence of the Governor ; and

(*b*) as regards Article 95A, to any State, if Parliament so provides with the concurrence of the Legislative Assembly.

(6) For each representative of a Borneo State or of Singapore becoming entitled, by virtue of Clause (5), to vote on questions before the National Land Council or National Council of Local Government, one shall be added to the maximum number of representatives of the Federal Government on that Council.

Application of Articles 83 to 87 to States not having a Ruler. (Article 88).

44. In their application to any of the States not having a Ruler, Articles 83 to 87 shall have effect—

(*a*) subject to such adaptations (if any) as Parliament may by law provide, being adaptations required to secure that they apply (as nearly as practicable having regard to differences in the system of land tenure) in the same manner as they apply to other States ; and

(*b*) in the case of the Borneo States and Singapore with the omission in Article 83 of paragraph (*a*) of Clause (5).

TITLE IV

FINANCIAL PROVISIONS

Chapter 1—Borneo States

Amendments of Tenth Schedule for Borneo States.

45. (1) For the Borneo States there shall be added to the Tenth Schedule to the Constitution as Parts IV and V of that Schedule (with such effect as is provided by the next following section of this Act) the provisions set out as such in the Fifth Schedule to this Act.

(2) At the end of Part II of the Tenth Schedule to the Constitution there shall be added as a new section 6—

" 6. (1) The State road grant payable to Sabah or Sarawak shall, in each of the years 1964 and 1965, be payable at the

rate of $4,500 a mile in respect of a mileage in Sabah of 1,151 miles and in Sarawak of such amount as may be agreed between the Federal and State Governments.

(2) Thereafter sections 2 to 5 shall apply to the State road grant so payable with the following modifications:

(*a*) the average cost and minimum standard mentioned in section 2 (*a*) shall be respectively the average in the State and the minimum standard determined for State roads in the State; and

(*b*) any length of road maintained by a local authority at the expense of the State shall be treated as maintained by the Public Works Department of the State."

Special grants and assignments of revenue to Borneo States. **(Article 112C).**

46. (1) Subject to the provisions of Article 112D and to any limitation expressed in the relevant section of the Tenth Schedule—

(*a*) the Federation shall make to the Borneo States in respect of each financial year the grants specified in Part IV of that Schedule; and

(*b*) each of those States shall receive all proceeds from the taxes, fees and dues specified in Part V of that Schedule, so far as collected, levied or raised within the State, or such part of those proceeds as is so specified.

(2) The amounts required for making the grants specified in the said Part IV, and the amounts receivable by a Borneo State under section 3 or 4 of the said Part V, shall be charged on the Consolidated Fund; and the amounts otherwise receivable by a Borneo State under the said Part V shall not be paid into the Consolidated Fund.

(3) In Article 110, Clauses (3A) and (4) shall not apply to a Borneo State.

(4) Subject to Clause (5) of Article 112D, in relation to a Borneo State Clause (3B) of Article 110—

(*a*) shall apply in relation to all minerals, including mineral oils; but

(*b*) shall not authorise Parliament to prohibit the levying of royalties on any mineral by the State or to restrict the royalties that may be so levied in any case so that the State is not entitled to receive a royalty amounting to ten per cent. *ad valorem* (calculated as for export duty).

Reviews of special grants to Borneo States. **(Article 112D).**

47. (1) The grants specified in section 1 and sub-section (1) of section 2 of Part IV of the Tenth Schedule, and any substituted or additional grant made by virtue of this Clause, shall at the intervals mentioned in Clause (4) be reviewed by the governments of the Federation and the States or State concerned, and if they agree on the alteration or

abolition of any of those grants, or the making of another grant instead of or as well as those grants or any of them, the said Part IV and Clause (2) of Article 112c shall be modified by order of the Yang di-Pertuan Agong as may be necessary to give effect to the agreement:

Provided that on the first review the grant specified in sub-section (2) of section 1 of the said Part IV shall not be brought into question except for the purpose of fixing the amounts for the ensuing five years.

(2) Any review under this Article shall take into account the financial position of the Federal Government, as well as the needs of the States or State concerned, but (subject to that) shall endeavour to ensure that the State revenue is adequate to meet the cost of State services as they exist at the time of the review, with such provision for their expansion as appears reasonable.

(3) The period for which provision is to be made on a review shall be a period of five years or (except in the case of the first review) such longer period as may be agreed between the Federation and the States or State concerned; but any order under Clause (1) giving effect to the results of a review shall continue in force after the end of that period, except in so far as it is superseded by a further order under that Clause.

(4) A review under this Article shall not take place earlier than is reasonably necessary to secure that effect can be given to the results of the review from the end of the year 1968 or, in the case of a second or subsequent review, from the end of the period provided for by the preceding review; but, subject to that, reviews shall be held as regards both Borneo States for periods beginning with the year 1969 and with the year 1974, and thereafter as regards either of them at such time (during or after the period provided for on the preceding review) as the Government of the Federation or of the State may require.

(5) If on the occasion of any review under this Article the Government of the Federation give notice to the States or State concerned of their intention to vary any of the assignments of revenue under Part V of the Tenth Schedule (including any substituted or additional assignment made by virtue of this Clause), or to vary Clause (4) of Article 112c, the review shall take the variation into account, and provision shall be made by order of the Yang di-Pertuan Agong so as to give effect to the variation from the beginning of the period provided for on the review:

Provided that this Clause shall not apply to the assignments under sections 4, 7 and 8, and shall not apply to that under section 5 or 6 until the second review.

(6) If on any review the Federal Government and the government of a State are unable to reach agreement on any matter, it shall be

referred to an independent assessor, and his recommendations thereon shall be binding on the governments concerned and shall be given effect as if they were the agreement of those governments.

(7) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of matters arising under this Article.

(8) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.

Chapter 2—Singapore

Financial arrangements with Singapore. (Article 112E).

48. (1) The Federal Government and the government of Singapore may from time to time enter into agreements providing for all or any of the following matters:

(*a*) the manner in which the revenue derived by the Federation from Singapore or any part of that revenue is to be collected and accounted for, and the division of it between the Federation and the State;

(*b*) the exercise by the State government or other authority of the State in relation to any such revenue of powers conferred by the laws relating thereto, or the concurrence of that government or any such authority in the exercise of any of those powers;

(*c*) the inclusion of Singapore in a common market with the rest of the Federation, the establishment of a Tariff Advisory Board and the laying down of conditions for the levying of import and export duties in relation to goods imported into or exported from Singapore;

(*d*) excluding or modifying in relation to the State all or any of the provisions of Articles 109 and 110 and the Tenth Schedule;

(*e*) the making of payments (by way of loan or otherwise) by the Federation to the State or by the State to the Federation;

(*f*) determining the revenue which is to be treated for the purposes of any such agreement as derived from Singapore, reviewing the operation of any such agreement and referring to the decision of an independent assessor matters arising on such a review and not settled by agreement, and other matters arising out of or incidental to any such agreement.

(2) The Yang di-Pertuan Agong shall by order make such provision as may be necessary to give effect to any such agreement as is mentioned in Clause (1), including provision modifying in relation to Singapore any law relating to any federal revenue; and any such order shall be laid before each House of Parliament.

(3) An order under Clause (2) may provide that the executive authority of the State shall extend to the administration of any specified provisions of the law relating to any federal revenue, and may for that purpose confer powers and impose duties on any authority of the State.

(4) In relation to Singapore Part III of the Tenth Schedule shall have effect as if the source of revenue specified in section 7 included the property tax levied for local purposes by the State.

(5) The decision of an independent assessor on any matter referred to him on the review of an agreement under this Article shall be binding on the governments concerned and shall be treated for purposes of this Article as the agreement of those governments.

(6) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of any agreement under this Article.

(7) An agreement made before Malaysia Day shall have effect for the purposes of this Article.

(8) This Article shall cease to have effect as regards the making of any further agreement thereunder—

(*a*) if at any time there is no agreement in force under this Article; and

(*b*) in such other circumstances as may be provided by any agreement thereunder:

Provided that it shall not under paragraph (*a*) so cease to have effect pending the completion of a review of the operation of such an agreement (including any reference to an independent assessor).

Chapter 3—General

49. Clause (2) of Article 111 shall not restrict the power of a Borneo State or of Singapore to borrow under the authority of State law within the State, if the borrowing has the approval of the Central Bank for the time being of the Federation, nor the power of Singapore to borrow under the authority of State law otherwise than within the State, if the borrowing has the approval of the Federal Government.

Borrowing powers of Borneo States and Singapore. (Article 112B).

50. (1) The Auditor-General shall submit his reports relating to the accounts of a Borneo State or Singapore, or to the accounts of any public authority exercising powers vested in it by the State law in any of those States, to the Yang di-Pertuan Agong (who shall cause them to be laid before the House of Representatives) and to the Governor of the State; and accordingly Clause (2) of Article 107 shall not apply to those reports.

State audits in Borneo States and Singapore. (Article 112A).

(2) The Governor shall cause any such report submitted to him to be laid before the Legislative Assembly.

(3) The powers and duties of the Auditor-General in relation to the accounts mentioned in Clause (1) for any period ending before the year 1969 shall, in a Borneo State, be exercised and discharged on his behalf by the senior officer of his department for the time being stationed in the State in question:

Provided that during the absence or incapacity of that officer, or a vacancy in his post, those powers and duties shall be exercised and

discharged by the Auditor-General or such officer of his department as he may designate.

State road grant in States of Malaya.

51. The rules for determining the rate at which the State road grant is payable by the Federation to the States of Malaya shall be the same as if this Act had not been passed, and accordingly Part II of the Tenth Schedule to the Constitution shall be amended as follows:

(*a*) in section 2 for the words "each State" and for the words "such roads" there shall respectively be substituted the words "each of the States of Malaya" and the words "State roads in those States"; and

(*b*) in section 3 for the words "throughout the Federation" there shall be substituted the words "throughout the States of Malaya".

TITLE V

PUBLIC SERVICES

Judicial and Legal Service Commission. (Article 138).

52. (1) There shall be a Judicial and Legal Service Commission, whose jurisdiction shall extend to all members of the judicial and legal service.

(2) Subject to Article 146A, the Judicial and Legal Service Commission shall consist of—

(*a*) the Chairman of the Public Services Commission, who shall be Chairman;

(*b*) the Attorney-General; and

(*c*) one or more other members who shall be appointed by the Yang di-Pertuan Agong, after consultation with the Lord President of the Federal Court, from among persons who are or have been a judge of the Federal Court or a High Court or shall before Malaysia Day have been a judge of the Supreme Court.

(3) The person who is secretary to the Public Services Commission shall be secretary also to the Judicial and Legal Service Commission.

Amendments consequential on establishment of Judicial and Legal Service Commission.

53. (1) In Article 135 of the Constitution there shall be added as a new Clause (3)—

"(3) No member of any of the services mentioned in paragraph (*e*), (*f*) or (*g*) of Clause (1) of Article 132 shall, without the concurrence of the Judicial and Legal Service Commission, be dismissed or reduced in rank or suffer any other disciplinary measure for anything done or omitted by him in the exercise of a judicial function conferred on him by law."

(2) In Article 139, in Clause (1) (under which the Public Services Commission, by virtue of the reference to paragraph (*b*) of Clause (1) of Article 132, has jurisdiction over the judicial and legal service), there shall be omitted the "(*b*)" following the word "paragraphs".

(3) In Article 144, in Clause (3) (which makes special provision for appointments to the posts of head or deputy head of a department and posts of similar status) after the word "status" there shall be inserted the words "other than posts in the judicial and legal service".

(4) In the original Article 145, if still in force at the commencement of this Act, in Clause (1) (which provides for the appointment of the Attorney-General to be made after consultation with the Public Services Commission) for the words "Public Services Commission" there shall be substituted the words "Judicial and Legal Service Commission".

(5) In Article 148, in Clause (1) (which construes references to a Commission to which Part X applies as references to one of those established by Articles 139 to 141), for the words "139" there shall be substituted the words "138".

Branches in Borneo States and in Singapore of Judicial and Legal Service Commission. (Article 146A).

54. (1) In respect of members of the judicial and legal service who are employed in the Borneo States or in Singapore the functions to be discharged by the Judicial and Legal Service Commission shall, so long as this Article has effect, be discharged by a branch of that Commission established for the Borneo States or for Singapore, as the case may be.

(2) The branch of the Judicial and Legal Service Commission for the Borneo States shall consist of—

(*a*) the Chief Justice of the High Court in Borneo, who shall be Chairman;

(*b*) the legal advisers of the Borneo States;

(*c*) the chairman of the State Public Service Commission (if any) in each of the Borneo States; and

(*d*) two persons designated by the Federal Government from among the members of the main body of the Judicial and Legal Service Commission or Public Services Commission.

(3) The branch of the Judicial and Legal Service Commission for Singapore shall consist of—

(*a*) the Chief Justice of the High Court in Singapore, who shall be Chairman;

(*b*) the legal adviser of the State;

(*c*) the chairman of the State Public Service Commission in Singapore;

(*d*) a judge of the High Court in Singapore designated by the Chief Justice;

(*e*) not more than two members of the Public Services Commission, being the member or members of the main body serving under Clause (3) of Article 146B on the branch

for Singapore of that Commission or, if that Clause is not in operation, a member or members designated by the Federal Government.

(4) At any time when the branch of the Judicial and Legal Service Commission for the Borneo States includes among its members more than one chairman of a State Public Service Commission the following provisions shall apply:

(*a*) not more than one of those chairmen shall attend any meeting of the branch, and the one entitled to attend and be summoned to any meeting shall be determined by or in accordance with the rules of the branch and (subject to the rules) any general or special directions of the chairman of the branch; and

(*b*) the branch shall not make appointments to posts in the State of either of those chairmen at a meeting which he does not attend and has not been summoned to, unless he consents to their doing so.

(5) Notwithstanding Clause (2) of Article 134, so long as there is for the Borneo States or for Singapore a branch of the Judicial and Legal Service Commission under this Article, the jurisdiction of the Commission shall extend to members of the public service of a Borneo State or of Singapore, as the case may be, who are seconded to the judicial and legal service, and for purposes of the Judicial and Legal Service Commission they shall be deemed to be members of that service.

(6) This Article shall have effect until the end of August, 1968, and thereafter—

(*a*) in relation to the Borneo States, until the Federal Government determines to the contrary; and

(*b*) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor.

Branches in each Borneo State and in Singapore of Public Services Commission. (Article 146B).

55. (1) In respect of members of the general public service of the Federation who are employed in a federal department in a Borneo State or in Singapore the functions to be discharged by the Public Services Commission shall, so long as this Clause has effect, be discharged by a branch of that Commission established for the State.

(2) Subject to Clause (3), the branch of the Public Services Commission established for a State under Clause (1) shall consist of such members of the main body of the Commission as may be designated by the Federal Government and such special members as the Yang di-Pertuan Agong may appoint; and the Yang di-Pertuan Agong in making any appointment under this Clause shall act in his discretion, after considering the advice of the Prime Minister and consulting the Governor of the State.

(3) So long as this Clause has effect, in any State in which there is for the time being a State Public Service Commission, the members of that Commission shall *ex officio* be members of the branch for the State of the Public Services Commission, and that branch shall consist of those members and not more than two members of the main body of the Public Services Commission designated by the Federal Government.

(4) Such member of a branch of the Public Services Commission established under Clause (1) as may be designated by the Chairman of the Commission shall be chairman of the branch.

(5) The number of members of the Public Services Commission required by Clause (4) of Article 139 shall be the number of the members of the main body, exclusive of those who are members of a branch but not of the main body.

(6) Where a post in a federal department in a Borneo State entails duties in or in respect of the other of those States, the branch of the Public Services Commission whose jurisdiction is to extend to that post shall be the branch for the State in which the head of the department is normally stationed or, in any case of doubt or difficulty, whichever branch the Federal Government may determine.

(7) Notwithstanding Clause (2) of Article 134, so long as there is for a Borneo State a branch of the Public Services Commission under this Article and the branch is constituted in accordance with Clause (3), the jurisdiction of the Public Services Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of the State who are seconded to the general public service of the Federation, other than members in or below such grade as the Yang di-Pertuan Agong, with the concurrence of the Ruler or Governor, may direct; and for purposes of the Public Services Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the general public service of the Federation.

(8) Clauses (1) and (3) shall have effect until the end of August, 1968, and thereafter either shall continue to have effect—

(*a*) in relation to a Borneo State, until the Federal Government determines to the contrary; and

(*b*) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor.

Supplementary provisions as to branches of Commissions. (Article 146C).

56. (1) If provision is made by federal law for establishing a joint service common to the Federation and to a Borneo State or Singapore, or to two or more of those States with or without the Federation, and for conferring jurisdiction in respect of that service on the Judicial and Legal Service Commission or the Public Services Commission, federal law may provide for functions of the Commission in

relation to that service to be exercised by any branch for the time being established under Article 146A or 146B for the State or any of the States in question.

(2) In Article 142, paragraph (*b*) of Clause (4) and, in Article 143, Clause (2) shall have effect in relation to members of a branch of the Judicial and Legal Service Commission or Public Services Commission established under Article 146A or 146B as if the references to federal law included references to State law.

(3) Clause (8) of Article 144 shall apply to a branch of the Judicial and Legal Service Commission or Public Services Commission established under Article 146A or 146B as if it were a separate Commission to which this Part applies; but nothing in those Articles shall be taken to require such a branch to make a separate annual report under Article 146.

Jurisdiction of Police Force Commission over seconded members of State service in Borneo States. (Article 146D).

57. (1) Notwithstanding Clause (2) of Article 134, the jurisdiction of the Police Force Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of a Borneo State who are seconded to the police force; and for purposes of the Police Force Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the police force.

(2) If in a Borneo State there is not a board exercising disciplinary control over the said persons and having the following membership, that is to say—

(*a*) the Chairman of a State Public Service Commission in the State; and

(*b*) the legal adviser of the State; and

(*c*) the senior officer of police in the State; and

(*d*) a representative of the Director of Police Affairs;

then Clause (1) shall apply as if it made no exception for the exercise of disciplinary control.

(3) So much of Clause (2) of Article 139 as provides for extending the jurisdiction of the Public Services Commission in certain circumstances to members of the public service of a State shall not apply to members of the public service of a Borneo State who are seconded to the police force.

Offices not comprised in term " public service " or not subject to Commissions.

58. In Article 132 of the Constitution, for Clauses (3) and (4) there shall be substituted—

" (3) The public service shall not be taken to comprise—

(*a*) the office of any member of the administration in the Federation or a State; or

(*b*) the office of President, Speaker, Deputy President, Deputy Speaker or member of either House of Parliament or of the Legislative Assembly of a State; or

(*c*) the office of judge of the Federal Court or a High Court; or

(*d*) the office of member of any Commission or Council established by this Constitution or any corresponding Commission or Council established by the Constitution of a State; or

(*e*) such diplomatic posts as the Yang di-Pertuan Agong may by order prescribe, being posts which but for the order would be posts in the general public service of the Federation.

(4) References in this Part, except in Articles 136 and 147, to persons in the public service or to members of any of the public services shall not apply to—

(*a*) the Clerk to either House of Parliament or any member of the staff of Parliament; or

(*b*) the Attorney General or, if provision for the manner of his appointment and removal from office is specifically included in the Constitution of the State, or if he is appointed otherwise than from among the members of the judicial and legal service or of the public service of the State, the legal adviser of any State; or

(*c*) a member of the personal staff of the Yang di-Pertuan Agong or of a Ruler or Governor."

59. (1) In Article 139 of the Constitution, in Clause (4) (under which the membership of the Public Services Commission is limited to eight members in addition to the chairman and deputy chairman), for the word "eight" there shall be substituted the word "ten", and at the beginning of that Clause there shall be inserted the words "Subject to Article 146B". Supplementary.

(2) In Article 148 of the Constitution there shall be added at the end of Clause (2) the words "and 'State Public Service Commission' means, in relation to any State, a Commission exercising functions in respect of members of the public service of the State and corresponding in status and jurisdiction to the Public Services Commission".

Title VI

Protection of Special Interests

Chapter 1—General

60. (1) In Article 9 of the Constitution, in Clause (2) (which guarantees to citizens the right of free movement throughout the Federation), for the words "Subject to any restriction imposed by any law relating to the security of the Federation" there shall be substituted the words "Subject to Clause (3) and to any law relating to the security of the Power to limit freedom of movement or of association, etc.

Federation or any part thereof" ; and at the end of the Article there shall be added as Clause (3)—

"(3) So long as under this Constitution any other State is in a special position as compared with the States of Malaya, Parliament may by law impose restrictions, as between that State and other States, on the rights conferred by Clause (2) in respect of movement and residence:

Provided that no restriction on the right of movement between the State of Singapore and the States of Malaya shall be imposed by virtue of this Clause except by a law relating to labour or education or to any matter in respect of which, because of the special position of the State of Singapore, it appears to Parliament to be desirable to prevent the enjoyment of rights both in the State of Singapore and in the States of Malaya."

(2) The said Clause (3) of Article 9 of the Constitution shall apply to laws passed before Malaysia Day so as to impose restrictions with effect from Malaysia Day.

(3) In Article 10 of the Constitution (which guarantees to citizens the rights of free speech, assembly and association, subject to any restrictions imposed in the interest of the security of the Federation, etc.), in Clause (2) after the words "the security of the Federation" there shall, in all places, be inserted the words "or any part thereof".

(4) In the said Article 10, in Clause (1) for the words "Clause (2)" there shall be substituted the words "Clauses (2) and (3)", and at the end of the Article there shall be added as Clause (3)—

"(3) Restrictions on the right to form associations conferred by paragraph (*c*) of Clause (1) may also be imposed by any law relating to labour or education."

Chapter 2—Borneo States

Use of English and of native languages in Borneo States. **(Article 161).**

61. (1) No Act of Parliament terminating or restricting the use of the English language for any of the purposes mentioned in Clauses (2) to (5) of Article 152 shall come into operation as regards the use of the English language in any case mentioned in Clause (2) of this Article until ten years after Malaysia Day.

(2) Clause (1) applies—

(*a*) to the use of the English language in either House of Parliament by a member for or from a Borneo State; and

(*b*) to the use of the English language for proceedings in the High Court in Borneo or in a subordinate court in a

Borneo State, or for such proceedings in the Federal Court as are mentioned in Clause (4); and

(*c*) to the use of the English language in a Borneo State in the Legislative Assembly or for other official purposes (including the official purposes of the Federal Government).

(3) Without prejudice to Clause (1), no such Act of Parliament as is there mentioned shall come into operation as regards the use of the English language for proceedings in the High Court in Borneo or for such proceedings in the Federal Court as are mentioned in Clause (4), until the Act or the relevant provision of it has been approved by enactments of the Legislatures of the Borneo States; and no such Act shall come into operation as regards the use of the English language in a Borneo State in any other case mentioned in paragraph (*b*) or (*c*) of Clause (2), until the Act or the relevant provision of it has been approved by an enactment of the Legislature of that State.

(4) The proceedings in the Federal Court referred to in Clauses (2) and (3) are any proceedings on appeal from the High Court in Borneo or a judge thereof, and any proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in a Borneo State.

(5) Notwithstanding anything in Article 152, in a Borneo State a native language in current use in the State may be used in native courts or for any code of native law and custom, and in the case of Sarawak, until otherwise provided by enactment of the Legislature, may be used by a member addressing the Legislative Assembly or any committee thereof.

62. (1) Subject to Clause (2), the provisions of Clauses (2) to (5) of Article 153, so far as they relate to the reservation of positions in the public service, shall apply in relation to natives of a Borneo State as they apply in relation to Malays.

Special position of natives of Borneo States. (Article 161A).

(2) In a Borneo State Article 153 shall have effect with the substitution of references to natives of the State for the references to Malays, but as regards scholarships, exhibitions and other educational or training privileges and facilities Clause (2) of that Article shall not require the reservation of a fixed proportion for natives.

(3) Before advice is tendered to the Yang di-Pertuan Agong as to the exercise of his powers under Article 153 in relation to a Borneo State, the Chief Minister of the State in question shall be consulted.

(4) The Constitutions of the Borneo States may make provision corresponding (with the necessary modifications) to Article 153 with the changes made by Clause (2).

(5) Article 89 shall not apply to a Borneo State, and Article 8 shall not invalidate or prohibit any provision of State law in a Borneo State for the reservation of land for natives of the State or for alienation to them, or for giving them preferential treatment as regards the alienation of land by the State.

(6) In this Article "native" means—

(*a*) in relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races; and

(*b*) in relation to Sabah, a person who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia Day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth.

(7) The races to be treated for the purposes of the definition of "native" in Clause (6) as indigenous to Sarawak are the Bukitans, Bisayahs, Dusuns, Sea Dayaks, Land Dayaks, Kadayans, Kalabits, Kayans, Kenyahs (including Sabups and Sipengs), Kajangs (including Sekapans, Kejamans, Lahanans, Malays, Punans, Tanjongs and Kanowits), Lugats, Lisums, Melanos, Muruts, Penans, Sians, Tagals, Tabuns and Ukits.

Restriction on extension to non-residents of right to practise before courts in Borneo States. **(Article 161B).**

63. (1) In so far as any provision made by or under an Act of Parliament, by removing or altering a residence qualification, confers a right to practise before a court in the Borneo States or either of them on persons not previously having the right, that provision shall not come into operation until adopted in the States or State in question by an enactment of the Legislature.

(2) This Article shall apply to the right to practise before the Federal Court when sitting in the Borneo States and entertaining proceedings on appeal from the High Court in Borneo or a judge thereof or proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in a Borneo State.

Muslim education in Borneo States. **(Article 161C).**

64. (1) No Act of Parliament which provides as respects a Borneo State for special financial aid for the establishment or maintenance of Muslim institutions or the instruction in the Muslim religion or persons professing that religion shall be passed without the consent of the Governor.

(2) Where under any provision of federal law not having effect as respects Sabah, or not having effect as respects Sarawak, any such aid as aforesaid is given by way of grant out of public funds in any

year, there shall be paid by the Federation to the Government of Sabah or Sarawak, as the case may be, and applied for social welfare purposes in that State, amounts which bear to the revenue derived by the Federation from that State in the year the same proportion as the grant bears to the revenue derived by the Federation from other States in that year.

(3) For the purposes of Clause (2) the revenue derived by the Federation from any State or States shall be the amount after deduction of any sums assigned to States under Article 110 or the Tenth Schedule ; and there shall be disregarded any contributions received by the Federation out of the proceeds of lotteries conducted by the Social and Welfare Services Lotteries Board together with any amounts applied to such aid as aforesaid out of or by reference to those contributions.

65. Notwithstanding Clause (4) of Article 11, there may be included in the Constitution of a Borneo State provision that an enactment of the State Legislature controlling or restricting the propagation of any religious doctrine or belief among persons professing the Muslim religion shall not be passed unless it is agreed to in the Legislative Assembly on second or third reading or on both by a specified majority, not being a majority greater than two-thirds of the total number of members of the Assembly. Freedom of religion. **(Article 161D).**

66. (1) As from the passing of the Malaysia Act no amendment to the Constitution made in connection with the admission to the Federation of a Borneo State shall be excepted from Clause (3) of Article 159 by Clause (4)(*bb*) of that Article; nor shall any modification made as to the application of the Constitution to a State be so excepted unless the modification is such as to equate or assimilate the position of that State under the Constitution to the position of the States of Malaya. Safeguards for constitutional position of Borneo States. **(Article 161E).**

(2) No amendment shall be made to the Constitution without the concurrence of the Governor of the Borneo State or each of the Borneo States concerned, if the amendment is such as to affect the operation of the Constitution as regards any of the following matters:

(*a*) the right of persons born before Malaysia Day to citizenship by reason of a connection with the State, and (except to the extent that different provision is made by the Constitution as in force on Malaysia Day) the equal treatment, as regards their own citizenship and that of others, of persons born or resident in the State and of persons born or resident in the States of Malaya ;

(*b*) the constitution and jurisdiction of the High Court in Borneo and the appointment, removal and suspension of judges of that court ;

(*c*) the matters with respect to which the Legislature of the State may make laws, and the executive authority of the State in those matters, and (so far as related thereto) the financial arrangements between the Federation and the State ;

(*d*) religion in the State, the use in the State or in Parliament of any language and the special treatment of natives of the State ;

(*e*) the allocation to the State, in any Parliament summoned to meet before the end of August, 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.

(3) No amendment to the Constitution which affects its operation as regards the quota of members of the House of Representatives allocated to a Borneo State shall be treated for purposes of Clause (1) as equating or assimilating the position of that State to the position of the States of Malaya.

(4) In relation to any rights and powers conferred by federal law on the government of a Borneo State as regards entry into the State and residence in the State and matters connected therewith (whether or not the law is passed before Malaysia Day) Clause (2) shall apply, except in so far as the law provides to the contrary, as if the law had been embodied in the Constitution and those rights and powers had been included among the matters mentioned in paragraphs (*a*) to (*e*) of that Clause.

(5) In this Article " amendment " includes addition and repeal.

Chapter 3—Singapore

Use of unofficial languages in Singapore Assembly. **(Article 161F).**

67. Notwithstanding anything in Article 152, until otherwise provided by enactment of the Legislature of Singapore, the English, Mandarin and Tamil languages may be used in the Legislative Assembly of Singapore, and the English language may be used for the authoritative texts of all Bills to be introduced or amendments thereto to be moved in that Assembly, and of all enactments of that Legislature, and of all subsidiary legislation issued by the government of Singapore.

Special position of Malays in Singapore. **(Article 161G).**

68. Nothing in Clause (2) of Article 8 or Clause (1) of Article 12 shall prohibit or invalidate any provision of State law in Singapore for the advancement of Malays ; but there shall be no reservation for Malays in accordance with Article 153 of positions in the public service to be filled by recruitment in Singapore, or of permits or licences for the operation of any trade or business in Singapore.

69. (1) No amendment shall be made to the Constitution without the concurrence of the Governor if the amendment is such as to affect the operation of the Constitution in relation to Singapore as regards any of the following matters— Safeguards for constitutional position of Singapore. (Article 161H).

(*a*) citizenship of Singapore, and the restriction to citizens of Singapore of the right to be a member of either House of Parliament for or from Singapore, or to be a member of the Legislative Assembly of Singapore, or to vote at elections in Singapore ;

(*b*) the constitution and jurisdiction of the High Court in Singapore and the appointment, removal and suspension of judges of that court ;

(*c*) the matters with respect to which the Legislature of the State may make laws, the executive authority of the State in those matters, the borrowing powers of the State and the financial arrangements between the Federation and the State ;

(*d*) the discharge of functions of the Public Services Commission or of the Judicial and Legal Service Commission by a branch established for the State, and the constitution of any such branch ;

(*e*) religion in the State, the use in the State or in Parliament of any language and the special position of the Malays in Singapore ;

(*f*) the allocation to the State, in any Parliament summoned to meet before the end of August, 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.

(2) In this Article " amendment " includes addition and repeal.

TITLE VII

SUPPLEMENTARY

70. The Constitution shall be amended by amending or omitting as specified in the second column of the Sixth Schedule to this Act the provisions specified in the first column. Minor and consequential amendments.

71. The provisions of Part IV of the Malaysia Act, 1963 (which contains temporary and transitional provisions in connection with the operation of that Act) shall have effect as if embodied in this Constitution, and shall have effect notwithstanding anything in this Constitution as amended by that Act ; and the provisions of this Constitution, and in particular Clause (1) of Article 4 and Articles 159, 161E and 161H, shall have effect in relation thereto accordingly. Operation of transitional provisions of Malaysia Act. (Article 159A).

Repeals. **72.** The following provisions are hereby repealed:

10 of 1960. (*a*) in the Constitution (Amendment) Act, 1960, section 15, paragraphs (*c*) and (*d*) of section 17, sections 18 and 20, paragraph (*a*) of section 21, paragraph (*a*) of section 25, paragraph (*b*) of section 27 and section 34; and

14 of 1962. (*b*) in the Constitution (Amendment) Act, 1962, sections 2, 3, 6 and 14 and in the Schedule sub-paragraphs (*a*) and (*b*) of paragraph 1, paragraphs 10 and 13 and sub-paragraphs (*a*) and (*c*) of paragraph 14.

PART IV

TRANSITIONAL AND TEMPORARY

Chapter 1—General

Continuation and effect of present laws. **73.** (1) Subject to the following provisions of this Part of this Act and to any law passed or made on or after Malaysia Day, all present laws shall, on and after Malaysia Day, have effect according to their tenor, and be construed as if this Act had not been passed:

Provided that references to the Federation (except in relation to a time before Malaysia Day) shall be construed as references to Malaysia, and expressions importing such a reference shall be construed accordingly.

(2) Any present law of the Federation passed or made on or after the day this Act is passed shall extend to any part of Malaysia to which it is expressed to extend; but save as aforesaid no present law of the Federation shall extend to a Borneo State or to Singapore, unless or until it is so extended by a law passed or made as aforesaid.

(3) Subject to the following provisions of this Part, the present laws of the Borneo States and of Singapore shall, on and after Malaysia Day, be treated as federal laws in so far as they are laws which could not be passed after Malaysia Day by the State Legislature, and otherwise as State laws.

(4) This section shall not validate or give effect to any provision contained in the present law of the Federation which is inconsistent with the Constitution, or any provision of present law which is invalid for reasons other than inconsistency with the Constitution.

(5) In this Part of this Act "present laws" means the laws of the Federation, of each of the Borneo States, and of Singapore passed or made before Malaysia Day, but does not include the Constitution of the Federation or any of those States or this Act.

74. (1) Subject to the provisions of this section the Yang di-Pertuan Agong may by order make such modifications as appear to him necessary or expedient in consequence of the passing of this Act in any present law relating to matters about which Parliament has power to make laws. Temporary power to modify and apply present laws.

(2) Subject to sub-section (3), the power to make orders under sub-section (1) shall include power to extend to a Borneo State or to Singapore any present law of the Federation about any such matter, or to declare to be federal law any present law about any such matter; but except in consequence of the extension to a State of a present law of the Federation, no such order shall modify any State law.

(3) An order under sub-section (1) shall not, without the concurrence of the Governor, make as respects any State any provision which in an Act of Parliament could not be made or could not come into force without the agreement (however expressed) of a State authority, nor extend to the State any law relating to matters about which the Legislature of the State has power to make laws, nor declare any present law of the State to be federal law, nor modify any State law.

(4) In any present law of a Borneo State or of Singapore which is to be treated as State law the Yang di-Pertuan Agong may by order make (in addition to any modifications made under sub-section (1)), such modifications as may be requested by the Governor and appear to him to be necessary or expedient in consequence of the passing of this Act.

(5) Any Act of Parliament or other law passed for the Federation before Malaysia Day which in the States of Malaya has effect as State law may by order of the Yang di-Pertuan Agong be extended to a Borneo State or Singapore, with or without modification, so as to have effect as State law in that State; but no law extended to a State under this sub-section without the concurrence of the Governor shall come into operation in the State until adopted by an enactment of the Legislature.

(6) Any provision made by an order under this section with respect to any law may be amended or repealed in like manner as that law.

(7) Orders under this section may be made at any time after the passing of this Act, and references to the Governor of a State shall be construed accordingly; and as respects the Federation orders under this section may be made to have effect before Malaysia Day.

(8) Any power to make orders under this section shall continue until the end of August, 1965, and thereafter till Parliament otherwise provides.

(9) Any order under sub-section (1) shall be laid before each House of Parliament; and if either House, at or before the second meeting begun after the order is laid before it, resolves that the order or any provision in it be annulled, the order or that provision of it shall cease to have effect, but without prejudice to anything previously done thereunder.

(10) In this section " modification " includes amendment, adaptation and repeal, and any power under this section to make modifications includes power to provide for savings and other transitional provisions.

Succession to property.

75. (1) Subject to sections 78 and 79, any land which on Malaysia Day is vested in a Borneo State or in the State of Singapore, and was on the preceding day occupied or used by the government of the United Kingdom or of the State, or by any public authority other than the government of the State, for purposes which on Malaysia Day become federal purposes, shall on and after that day be occupied, used, controlled and managed by the Federal Government or, as the case may be, the said public authority, so long as it is required for federal purposes; and that land—

(*a*) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government; and

(*b*) shall not by virtue of this sub-section be used for federal purposes different from the purposes for which it was used immediately before Malaysia Day without the consent of the government of the State and, where it ceases to be used for those purposes and that consent is not given, shall be offered to the State accordingly.

(2) For the purposes of sub-section (1) " federal purposes " includes the provision of government quarters for the holders of federal office or employment; but that sub-section shall not apply to any land by reason of its having been used by any government for providing government quarters other than those regarded by that government as institutional quarters.

(3) Property and assets other than land which immediately before Malaysia Day were used by the government of a Borneo State or of Singapore in maintaining government services shall be apportioned between the Federation and the State with regard to the needs of the Federal and State governments respectively to have the use of the property and assets for Federal or State services, and (subject to any agreement to the contrary between the governments concerned) a corresponding apportionment as at that date shall be made of other assets of the State (but not including land) and of the burden, as between the Federation and the State, of any financial liabilities of the State (including future debt charges in respect of those liabilities); and there shall be made all such transfers and payments as may be necessary to give effect to any apportionment under this sub-section.

(4) In this section references to the government of a State include the government of the territories comprised therein before Malaysia Day.

76. (1) All rights, liabilities and obligations relating to any matter which was immediately before Malaysia Day the responsibility of the government of a Borneo State or of Singapore, but which on that day becomes the responsibility of the Federal Government, shall on that day devolve upon the Federation, unless otherwise agreed between the Federal Government and the government of the State. Succession to rights, liabilities and obligations.

(2) This section does not apply to any rights, liabilities or obligations in relation to which section 75 has effect, nor does it have effect to transfer any person from service under the State to service under the Federation or otherwise affect any rights, liabilities or obligations arising from such service or from any contract of employment; but, subject to that, in this section rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise.

(3) The Attorney-General shall on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this section a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

(4) In this section references to the government of a State include the government of the territories comprised therein before Malaysia Day.

77. (1) Subject to the provisions of this section, neither any transfer or surrender on Malaysia Day of jurisdiction in relation to a Borneo State or Singapore, nor anything contained in this Act, shall affect any person's liability to be prosecuted and punished for offences committed before Malaysia Day, or any proceedings brought or sentence imposed before that day in respect of any offence; but the powers mentioned in Article 42 of the Constitution (which relates to pardons, etc.) shall in the Borneo States and Singapore extend to offences committed and sentences imposed before Malaysia Day. Succession as to criminal and civil proceedings.

(2) In any legal proceedings pending on Malaysia Day (whether civil or criminal) there shall be made such substitution of one party for another as may be necessary to take account of any transfer or surrender on that day of jurisdiction or executive authority in a Borneo State or Singapore or of any transfer under this Act of rights, liabilities or obligations.

(3) Any appeal brought on or after Malaysia Day against a decision given in any legal proceedings before that day may be brought by or against the party who should, by virtue of sub-section (2), have been the appellant or respondent if the proceedings had continued after Malaysia Day; but if it is not so brought, sub-section (2) shall apply to it as it applies to proceedings pending on Malaysia Day.

(4) Sub-section (3) shall apply with the necessary modifications to proceedings for leave to appeal as it applies to an appeal.

(5) The Attorney-General shall, on the application of a party to any proceedings, certify whether any, and if so what, substitution of one party for another is to be made by virtue of sub-sections (2) to (4) in those proceedings or for the purpose of any appeal arising out of them, and any such certificate shall for purposes of the proceedings or any such appeal, be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

Succession on future transfers of responsibility.

78. (1) Where in a Borneo State or in Singapore the State government on Malaysia Day retains responsibility for any matter by reason—

(*a*) of the matter being included for a limited period in the Concurrent List; or

(*b*) of the making of an order under Article 95C of the Constitution empowering the State Legislature to pass laws about the matter;

but the matter would otherwise have become on Malaysia Day the responsibility of the Federal Government, then (subject to federal law) on that matter becoming the responsibility of the Federal Government sections 75 and 76 and sub-sections (2) to (5) of section 77 shall apply in connection with the transfer of responsibility for that matter with the substitution of references to the day on which it does so for the references to Malaysia Day.

(2) Where in a Borneo State or in Singapore the State government retains responsibility for any matter under a present law of the State continued in force under section 73, but the matter would otherwise have become on that day the responsibility of the Federal Government, then—

(*a*) the purposes of that law shall not be treated as federal purposes within the meaning of section 75 so long as the State government retains the responsibility thereunder; and

(*b*) sub-section (1) shall apply as it applies where the State government retains responsibility for the reasons there mentioned.

Defence lands.

79. (1) There shall on Malaysia Day vest in the Federal Lands Commissioner (without payment) any land in Singapore which is then leased or agreed to be leased by or on behalf of the State to, the Services' Lands Board for the purposes specified in section 72 of the Singapore (Constitution) Order in Council, 1958.

(2) Land vested in the Federal Lands Commissioner by sub-section (1) shall vest in him for the term for which it was leased or

agreed to be leased to the Services' Lands Board for the purposes there mentioned, and on the terms and conditions on which it was so leased or agreed to be leased, except that—

(*a*) the Federal Lands Commissioner shall take the place of the Services' Lands Board ; and

(*b*) a condition that, subject to sub-section (3) of this section, the land shall be used by the Federal Government for defence purposes (including the purpose of implementing any agreement with the government of the United Kingdom relating to defence) shall take the place of any condition that the land shall be used for the purposes mentioned in sub-section (1).

(3) For the purpose of implementing any such agreement as aforesaid, the Federal Government may permit any authority of the government of the United Kingdom to occupy, use, control or manage for defence purposes any land which is to be used for those purposes under sub-section (2) of this section, or sub-section (1) of section 75 ; and where land is vested in the Federal Lands Commissioner under this section, the Federal Lands Commissioner on the direction of the Federal Government may from time to time grant leases of the land for defence purposes for any term not exceeding at any time thirty years to any person for and on behalf of the government of the United Kingdom.

(4) Sub-section (1) of section 75 shall not apply to land in Singapore which immediately before Malaysia Day is occupied for defence purposes under a temporary occupation licence.

(5) In this section " the Services' Lands Board " means the corporation incorporated by that name under the Services' Lands Board Ordinance, 1959, of Singapore (No. 8 of 1959).

80. (1) As regards Sabah and Sarawak Clause (2) of Article 97 and Articles 109, 110 and 112c of the Constitution shall not have effect until the year 1964. Temporary financial provisions.

(2) Until the year 1964, all revenues accruing or collected in a Borneo State which would apart from this provision be revenues of the Federation shall be revenues of the State, and the burden of all expenditure in respect of federal services in the State (except to the extent that it is incurred by the Federation as additional expenditure) shall be borne by the State.

Chapter 2—State officers

81. (1) Article 147 of the Constitution shall have effect as if any reference to the public services included the public services before Malaysia Day in the territories comprised in any of the Borneo States or in Singapore. Preservation of pensions.

(2) In relation to awards granted to or in respect of persons who were members of those services that Article shall have effect with the substitution for references to Merdeka Day and to the thirtieth day of August, 1957, of references to Malaysia Day and the thirtieth day of August, 1963.

(3) For the purposes of that Article as it applies in relation to the former public services in Sarawak, there shall be treated as having had the force of law on the thirtieth day of August, 1963, any administrative regulations providing for the payment of pensions, gratuities or allowances and any resolution of Council Negri relating to the amount of any pension or allowance then in payment.

Special protection for pensions of serving members of State service in Borneo State.

82. (1) No pension, gratuity or other like allowance becoming payable by the Federal Government to or in respect of a serving member of the public service of a Borneo State on or by reference to his ceasing by death, retirement or otherwise to be a member of that service, shall be withheld, suspended or reduced in the exercise of any discretion conferred by the law relating thereto, unless the disciplinary authority concurs in the exercise of the discretion.

(2) In this section "serving member" means a member serving as such on Malaysia Day (including a member then on leave pending retirement), and "disciplinary authority" means whichever Commission to which Part X of the Constitution applies or similar disciplinary authority of the State is empowered to exercise disciplinary control in respect of the member in question immediately before he ceases to be a member.

Appeals by serving members of State service in Borneo State. against decisions affecting pension or compensation.

83. (1) Where a decision of the disciplinary authority given with respect to a compensable member of the public service of a Borneo State adversely affects his compensation, or adversely affects any pension, gratuity or other like allowance which is, or but for the decision would be, actually or potentially payable to or in respect of him by the Federal Government, then subject to the provisions of this section he may give notice to the disciplinary authority complaining of the decision and requiring it to be referred to an Appeals Board.

(2) Where a decision of a disciplinary authority is referred to an Appeals Board under this section, and the Board consider the decision or its effect was unduly harsh to the complainant having regard to the facts as found by the disciplinary authority and to all the circumstances, the Board shall so declare and shall state how they consider the effect of the decision ought fairly to be adjusted as regards compensation or as regards any such pension, gratuity or allowance as aforesaid ; and in any other case the Board shall confirm the decision.

(3) Where under sub-section (2) an Appeals Board declare a decision to have been unduly harsh, the law relating to the compen-

sation or to the pension, gratuity or allowance shall have effect as if it provided for the making of the adjustments (if any) proposed by the Appeals Board or such other adjustments not less favourable to the person entitled thereto as may be determined by or on behalf of the government liable after consultation with the disciplinary authority.

(4) An Appeals Board under this section shall consist of one member nominated by the Chief Minister of the State, one member nominated by the president or other head of such association representing public officers or professional body as the complainant may select, and a chairman nominated by the other two members or, if they do not agree on a nomination, by the Chief Justice of the High Court in Borneo.

(5) An Appeals Board under this section may deal with the reference to them without a hearing; but shall give the complainant and the disciplinary authority an opportunity to make representations and shall have a hearing if either of them requires.

(6) At any hearing the complainant and the disciplinary authority shall have a right to be legally represented, and the disciplinary authority, if not legally represented, may be represented by any member or officer of the authority.

(7) This section applies to any concurrence of the disciplinary authority under section 82, but save as aforesaid applies only to decisions taken by the disciplinary authority in the exercise of its disciplinary control over members of the public service of the State; and in relation to a decision of the disciplinary authority given on appeal this section shall apply as if that decision and the decision appealed against together constituted the decision of the disciplinary authority.

(8) The personal representatives of a deceased person shall be entitled to require to be referred to an Appeals Board any decision which he might, if alive, have required to be so referred, and shall be entitled to proceed with any reference instituted by him, and references in this section to the complainant shall be construed accordingly.

(9) The Chief Ministers of the Borneo States acting jointly may make rules for giving effect to this section, and for regulating references thereunder; and the rules shall include provision—

- (*a*) for ensuring that any compensable member of the State services of a Borneo State or, if he is dead, his personal representative (if any) is given due notice of any decision which he is entitled to have referred to an Appeals Board, and is informed of his rights in that behalf; and
- (*b*) for prescribing the time and manner in which notice is to be given to a disciplinary authority complaining of a decision and requiring it to be referred to an Appeals Board.

(10) In this section " compensation " means in relation to Sabah and Sarawak respectively compensation under the North Borneo (Compensation and Retiring Benefits) Order in Council, 1963, and compensation under the Sarawak (Compensation and Retiring Benefits) Order in Council, 1963 ; " compensable member " means a member who for purposes of compensation is an entitled officer within the meaning of the Order relating thereto ; and " disciplinary authority " means a Commission to which Part X of the Constitution applies or any similar disciplinary authority in the State.

Protection of certain members of State service in Borneo State from termination of secondment to federal service.

84. (1) Any arrangements made by the Federal Government for replacing in the public service of the Federation in a Borneo State compensable members of the State service (seconded to the Federal service) by local candidates for appointment or promotion shall be such—

(*a*) that it is for the Service Commission—

(i) to decide whether suitably qualified local candidates are available ; and

(ii) to select those members of the State service whose secondment is to be terminated ; and

(*b*) that, where any compensable member of the State service was seconded to the Federal service on the post in which he was serving becoming a post in the Federal service, he shall not be selected for the termination of his secondment within his expected period of employment, unless the Service Commission after consultation with the State government is satisfied that suitable employment in the State service will be available for him during the remainder of that period.

(2) In paragraph (*b*) of sub-section (1) the reference to a compensable member's expected period of employment is a reference to the minimum period during which he is to be employed in the State service as notified or last notified to him by or on behalf of the State government, but does not include a period so notified after Malaysia Day without the approval of the Federal Government.

(3) In this section " compensable member " has the same meaning as in section 83 ; " the Service Commission " means such of the Commissions to which Part X of the Constitution applies as has jurisdiction over the relevant branch of the public service ; and the reference in sub-section (2) to the State government includes the government of the territories comprised in the State before Malaysia Day.

Transfer of Singapore police to federal police force.

85. (1) All persons who immediately before Malaysia Day are members of the police force in Singapore (and are not on leave pending retirement) shall on that day become members of the police force of the Federation with a corresponding rank and in a corresponding capacity.

(2) A person who becomes a member of the police force of the Federation under this section—

(*a*) shall be employed on terms and conditions not less favourable than those applicable to him immediately before Malaysia Day;

(*b*) unless and until he elects to the contrary,—

(i) shall not be liable to be transferred without his consent to a post outside Singapore; but

(ii) shall not be eligible for promotion to such a post.

86. (1) Where in consequence of the passing of this Act a person is seconded to the public service of the Federation by a provision contained in the Constitution of a Borneo State or of Singapore, the effect of the secondment shall be the same as that of a secondment under Article 134 of the Constitution.

Persons assuming federal appointments (effect of secondment: exemption from being sworn).

(2) A person who in consequence of the passing of this Act becomes the holder of any office or employment under the Federation may, until Parliament otherwise provides, perform his functions without taking any oath required in the case of other holders of that office or employment, if he becomes the holder of it on Malaysia Day under any provision of this Part, or if (by secondment or otherwise) he becomes the holder of it on or after that day by reason of any transfer of responsibility to the Federal Government from a government under which he held a corresponding office or employment.

Chapter 3—The Courts and the Judiciary

87. (1) Until other provision is made by or under federal law, the appellate jurisdiction of the Federal Court and the jurisdiction of the High Courts, and (so far as may be) the practice and procedure to be followed by those Courts in the exercise of that jurisdiction, shall, subject to the provisions of this section, be the same as that exercised and followed in the like case immediately before Malaysia Day in the Supreme Court of the Federation, the Supreme Court of Sarawak, North Borneo and Brunei or the Supreme Court of Singapore, as the case may be:

Temporary provision as to jurisdiction, etc. of superior courts.

Provided that this sub-section shall not confer on any Court any jurisdiction which immediately before Malaysia Day was derived from any law of the State of Brunei.

(2) Until other provision is made by or under federal law, the practice and procedure to be followed by the Federal Court in the exercise of its original and consultative jurisdiction, and the practice and procedure of other courts in connection therewith, shall, subject to the provisions of this section, be the same as nearly as may be as that followed in the like case immediately before Malaysia Day in and in connection with the exercise of the corresponding jurisdiction by the Supreme Court of the Federation.

(3) Until other provision is made by or under federal law—

(*a*) the Federal Court and each of the High Courts shall adopt and use as its seal such seal or stamp as may be approved by the Lord President, in the case of the Federal Court, or the Chief Justice, in the case of a High Court; and

(*b*) there shall be in and for the purposes of those courts the like offices as there were immediately before Malaysia Day in the case of the said Supreme Courts, and the holders of those offices shall discharge the functions belonging thereto with such modifications as are required to give effect to sub-sections (1) and (2).

(4) Sub-sections (1) to (3) shall not affect the powers conferred by section 74, but subject to any order under that section and to the following provisions of this section all present laws affecting the jurisdiction, practice or procedure of the said Supreme Courts shall apply to the Federal Court and the High Courts with such modifications as may be necessary to give effect to sub-sections (1) to (3).

(5) Sub-sections (1) to (4) shall not have effect so as to prevent the amendment or revocation of any rules of court in force immediately before Malaysia Day, or the making of new rules of court, under the powers conferred by any present law as applied by sub-section (4) ; but, until other provision is made by federal law, the powers so conferred as regards the practice and procedure of the Federal Court and the practice and procedure of other courts in matters incidental to the exercise of any jurisdiction of the Federal Court, shall be exercised by the Lord President after consultation with the Chief Justices of the High Courts.

(6) Until other provision is made by or under federal law, the present law relating to appeals to the Yang di-Pertuan Agong from the Court of Appeal of the Federation, and the practice and procedure followed in connection therewith immediately before Malaysia Day, shall, subject to any order under section 74 and to any new rules of court, apply with any necessary modifications for the purpose of appeals to the Yang di-Pertuan Agong from the Federal Court.

(7) For the purposes of this section the right of audience in a court shall be deemed to be a matter of the practice of the court ; but in the Federal Court any advocate of a High Court shall have that right, if and so long as it depends on this section.

(8) For the purposes of this section the Court of Criminal Appeal in Singapore shall be treated as having been a division of the Court of Appeal.

(9) This section has effect subject to Article 66 of the Constitution.

Continuity of subordinate courts and of jurisdiction.

88. (1) Subject to any order under section 74 any subordinate court exercising jurisdiction and functions immediately before Malaysia Day in the territories comprised in a Borneo State or in the State of Singapore shall, until federal law otherwise provides, continue to exercise them.

(2) The validity on or after Malaysia Day of anything done before that day in or in connection with or with a view to any proceedings in a court in those territories shall not be affected by the court becoming on that day a court of the Federation, but anything so done shall be of the like effect as a thing done by or in relation to the court in the exercise of its jurisdiction as a court of the Federation.

(3) Anything done before Malaysia Day in or in connection with or with a view to any proceedings in the Court of Appeal of the Federation, or of Sarawak, North Borneo and Brunei, or of Singapore, or the Court of Criminal Appeal in Singapore, shall on and after that day be of the like effect as if that court were one and the same court with the Federal Court.

(4) Anything done before Malaysia Day in or in connection with or with a view to any proceedings in the High Court of the Federation, or of Sarawak, North Borneo and Brunei, or of Singapore shall on and after that day be of the like effect as if those High Courts were respectively one and the same court with the High Court in Malaya, the High Court in Borneo and the High Court in Singapore.

(5) Where in any court mentioned in sub-section (3) or (4) the hearing of a case has been begun but the case has not finally been disposed of before Malaysia Day, and any judge sitting to deal with the case does not on Malaysia Day become a judge of the court in which the further proceedings in the case are to be had under that sub-section, he shall in relation to the case have the same powers as if he had for the purpose thereof been duly appointed to act as judge of that court.

(6) References in this section to things done in connection with proceedings in a court shall include appeals from the court or a judge thereof, and shall apply to appeals to the Yang di-Pertuan Agong ; and any appeal to Her Britannic Majesty from the Supreme Court of Sarawak, North Borneo and Brunei or from the Supreme Court of Singapore or Court of Criminal Appeal in Singapore, and anything done with a view to such an appeal, shall for the purpose of making it effective under this section be treated as an appeal to the Yang di-Pertuan Agong or, as the case may be, as done with a view to such an appeal.

(7) Without prejudice to the generality of sub-sections (3) and (4), all records of the courts there mentioned which are in existence immediately before Malaysia Day shall on and after that day be held, continued and used as if they were records of the corresponding courts there mentioned which are established on Malaysia Day ; and any such record, in so far as it is on that day incomplete with respect to the period before that day, shall be made up as if this Act had not been passed.

(8) Any process, pleading, recognizance or other document may be amended to conform with its operation under this section, but shall have effect in accordance with this section whether or not it is so amended.

Continuance in office of existing judges.

89. (1) Subject to the provisions of this section, on Malaysia Day the persons holding office immediately before that day as judges of the Supreme Court of the Federation, of the Supreme Court of Sarawak, North Borneo and Brunei and of the Supreme Court of Singapore shall become judges of the Federal Court and of the High Courts as follows:

(*a*) the Chief Justice of the Federation shall become Lord President of the Federal Court, the Chief Justice of Sarawak, North Borneo and Brunei shall become Chief Justice of the High Court in Borneo and the Chief Justice of Singapore shall become Chief Justice of the High Court in Singapore ;

(*b*) the judges of the Court of Appeal of the Federation shall become judges of the Federal Court ;

(*c*) the other judges shall become respectively judges of the High Courts in Malaya, in Borneo and in Singapore according to the place in which they were judges before Malaysia Day.

(2) The first Chief Justice of the High Court in Malaya shall be appointed from among the persons holding office immediately before Malaysia Day as judges of the Supreme Court of the Federation, and if a judge of the Court of Appeal is appointed, sub-section (1) shall have effect subject to that appointment and to any appointment made in consequence of it.

(3) In connection with any such appointment as is mentioned in sub-section (2), any requirement of Article 122A of the Constitution as to consultation with the Lord President of the Federal Court or a Chief Justice may be satisfied by consultation with the person designated or appointed under this Article to hold that office.

(4) The term of office under sub-section (1) of a judge who immediately before Malaysia Day held his then office for a fixed term shall not expire before the end of that term ; and, subject to that, the term of office under sub-section (1) of any judge of the Supreme Court of Sarawak, North Borneo and Brunei who becomes a judge of the High Court in Borneo under that sub-section shall be such fixed period, whether or not expiring after he attains the age of sixty-five, as may have been notified to him before Malaysia Day by or with the authority of the Federal Government.

(5) Subject to sub-section (4) a person becoming judge of the Federal Court or a High Court under sub-section (1) (including the Lord President or a Chief Justice) shall hold that office on terms and conditions not less favourable than those applicable to him in the office he holds immediately before Malaysia Day.

(6) A person becoming judge of a High Court under sub-section (1) shall not be transferred to another High Court under Article 122C of the Constitution except with his consent.

Temporary provisions as to qualifications of judges.

90. (1) In Article 123 of the Constitution, in relation to a period before Malaysia Day—

(*a*) the reference in paragraph (*b*) to an advocate of the Federal Court and High Courts or of any of those courts shall be construed as a reference to an advocate of the Supreme Court of the Federation, of the Supreme Court of Sarawak, North Borneo and Brunei or of the Supreme Court of Singapore ; and

(*b*) the reference to the legal service of a State shall include a reference to the judicial and legal branch of the public service of the Government of North Borneo, Sarawak or Singapore.

(2) A person who immediately before Merdeka Day was a member of the judicial and legal service of the Federation, or immediately before Malaysia Day was a member of the judicial and legal branch of the public service of Brunei, North Borneo, Sarawak or Singapore, and who, if he were a citizen, would be qualified for appointment as a judge of the Federal Court or a High Court, shall be so qualified notwithstanding that he is not a citizen.

(3) A person may be appointed to be a judge of the Federal Court or of a High Court notwithstanding that he is not qualified for appointment under Article 123 of the Constitution if—

(*a*) the appointment is made within ten years of Merdeka Day or, in the case of an appointment to the High Court in Borneo or in Singapore, within ten years of Malaysia Day; and

(*b*) he is and has been for not less than five years qualified to practise as an advocate of a court in any Commonwealth country having unlimited jurisdiction in civil or criminal matters.

(4) A person appointed a judge by virtue of sub-section (3) may be appointed for a fixed period, whether or not expiring after he attains the age of sixty-five.

(5) Where a person who is not a citizen is required by the Constitution to take an oath on becoming Lord President of the Federal Court or on becoming a judge of the Federal Court or of a High Court, the words " and allegiance " shall be omitted from the oath.

Pensions of certain judges from Borneo States.

91. Where a judge of the Supreme Court of Sarawak, North Borneo and Brunei, or a compensable member of the State service of a Borneo State (within the meaning of section 83) becomes a judge of the Federal Court or of a High Court, then—

(*a*) for the purposes of any compensation (within the meaning of that section), or pension, gratuity or other like allowance, payable to or in respect of him, he shall be treated as if he had while serving as a Judge of the Federal Court or of a High Court remained a member of the same service as immediately before Malaysia Day; and

(*b*) no such pension, gratuity or allowance becoming payable by the Federal Government on or by reference to his ceasing (whether by death or retirement) to be such a judge shall be withheld, suspended or reduced in the exercise of any discretion conferred by the law relating thereto.

Existing officers of Supreme Courts and judges of subordinate courts.

92. (1) Subject to subsections (2) and (3), all persons who immediately before Malaysia Day hold any office in the Supreme Court of the Federation (not being judges of the Court) and, if seconded to the public service of the Federation, all persons who immediately before that day hold any office in the Supreme Court of Sarawak,

North Borneo and Brunei or in the Supreme Court of Singapore or any judicial office in the territories comprised in a Borneo State or Singapore before Malaysia Day (not being judges of the Supreme Court) shall on that day continue in the like offices, subject to any appointment of any of them to another office.

(2) Sub-section (1) shall not apply to offices in the Court of Appeal in those Supreme Courts; but a person who under that sub-section becomes on Malaysia Day an officer of a High Court shall, unless or until other provision is made under this Part or by or under federal law, discharge in that office the like functions, as nearly as may be, in relation to the Federal Court as immediately before that day he discharged in any office held by him in a Court of Appeal, as if that office had immediately before Malaysia Day been amalgamated with his office in the High Court.

(3) This section shall apply to an office in a Supreme Court as such as if it had been an office in the High Court.

Chapter 4—Parliament and Legislative Assemblies

First elections and appointments to Senate.

93. (1) In each of the Borneo States and in Singapore the Governor shall, without the necessity for any notice under section 1 of the Seventh Schedule to the Constitution, require the Legislative Assembly to elect Senators as soon as may be after Malaysia Day.

(2) The term of office of a Senator elected at the first election in each of the States mentioned in sub-section (1) shall be the period ending at the end of August, 1968 or, in the case of the Senator who receives the fewer votes, the period ending at the end of August, 1965; and if at that election the two Senators elected each receive the same number of votes, the Senator who has the longer term of office shall be determined by lot.

(3) Of the six Senators first appointed by virtue of section 8 of this Act, three shall be appointed for a term ending at the end of August, 1968, and three for a term ending at the end of August, 1965.

House of Representatives and Legislative Assemblies (elections in Borneo States).

94. (1) In the Borneo States there shall be a period of indirect elections to the House of Representatives and to the Legislative Assembly; and Part VIII of the Constitution shall not have effect for the purpose of any election during that period to that House or Assembly.

(2) The period of indirect elections in any State shall be, for elections to the House of Representatives, the period up to the first dissolution of Parliament occurring after the end of August, 1968 or, for elections to the Legislative Assembly, the first dissolution of that Assembly so occurring:

Provided that with the concurrence of the Governor of a State the Yang di-Pertuan Agong may by order direct that this sub-section shall have effect in relation to the State with the substitution of an earlier date for the end of August, 1968.

(3) During the period of indirect elections in a State the members of the House of Representatives from the State shall be elected by the Legislative Assembly in accordance with such procedure as may be prescribed by order of the Governor made with the concurrence of the Yang di-Pertuan Agong ; and the order may either require the elections to be made from among members of the Assembly or permit others to be elected.

(4) During the period of indirect elections in any State elected members of the Legislative Assembly shall be elected as may be provided by federal or State law.

(5) In each of the Borneo States the Legislative Assembly shall, without any writ or other notification, proceed to the first election of members of the House of Representatives as soon as may be after Malaysia Day.

(6) If any question arises whether a member of the House of Representatives from a Borneo State has been duly elected during the period of indirect elections in the State, the decision of the House shall be taken and shall be final.

House of Representatives and Legislative Assembly (elections in Singapore).

95. (1) Subject to subsection (2), Part VIII of the Constitution shall not have effect for the purpose of elections of members of the House of Representatives from Singapore until the second general election to that House held after Malaysia Day, and so long as this subsection applies to those elections those members shall, subject to subsection (2), be elected as may be provided by any law passed by the Legislature of Singapore with the concurrence of the Yang di-Pertuan Agong (including any law so passed before Malaysia Day), and the period for which they are elected should be the period until the second dissolution of Parliament after Malaysia Day.

(2) Except as regards the first elections of members of the House of Representatives from Singapore, Article 119 of the Constitution, together with Article 30A, shall apply in relation to elections to which subsection (1) applies, but not so as to prevent use being made of electoral rolls in force immediately before Malaysia Day pending the revision of these rolls or the preparation of new ones according to law ; and except as regards the said first elections that subsection shall have effect subject to federal law (including any federal law applied in relation to those elections by an order under section 74 of this Act).

(3) Subject to subsection (5), Part VIII of the Constitution shall also not have effect for the purpose of elections to the Legislative Assembly of Singapore until the first general election to that Assembly held after such date (not being earlier than five years from Malaysia Day) as may be provided by Act of Parliament passed with the concurrence of the Governor.

(4) So long as sub-section (3) applies to elections to the Legislative Assembly of Singapore, the members of the Assembly shall,

subject to subsection (5), be elected as may be provided by federal or State law; and subject to any such law, on subsection (3) ceasing to apply the constituencies for those elections as then existing shall continue until altered on a review under Article 113 of the Constitution, and shall be reviewed when the federal constituencies are reviewed in accordance with that Article.

(5) Article 119 of the Constitution, together with Article 30A, shall apply in relation to elections to which subsection (3) applies, but not so as to prevent use being made for the purpose of those elections of electoral rolls in force immediately before Malaysia Day, pending the revision of those rolls or the preparation of new ones according to law; and so long as sub-section (3) applies to elections to the Legislative Assembly, Article 119 shall not invalidate or prohibit any restrictions on a person's right to vote at those elections which may be imposed by State law by reason of his failure to vote at such an election or by reason of any act or conduct showing adherence to a country or territory outside Malaysia.

First delimitation of constituencies.

96. (1) The constituencies in each of the Borneo States for the first elections to the House of Representatives or the Legislative Assembly after the end of the period of indirect elections, and the constituencies in Singapore for the first elections to the House of Representatives to which sub-section (1) of section 95 does not apply, shall be delimited by order of the Yang di-Pertuan Agong made in accordance with this section.

(2) The Election Commission, at such time as may be notified to them on behalf of the Federal Government, shall take into consideration the division of the State into constituencies and, within such period as may be so notified, shall submit to the Prime Minister a report showing—

(*a*) the constituencies into which they recommend the State should be divided in order to give effect to the principles set out in section 2 of the Thirteenth Schedule to the Constitution; and

(*b*) the names by which they recommend that those constituencies should be known.

(3) In applying the said section 2 for the purpose of that report the Election Commission shall estimate the number of electors from such information as is reasonably available to them, and section 3 of the said Thirteenth Schedule (which directs the number of electors to be taken to be as shown on the current electoral rolls) shall not apply for that purpose.

(4) Before making their report to the Prime Minister on the State, the Election Commission shall publish in the *Gazette* and in at least one newspaper circulating in the State, and in any other manner they think

necessary to secure that it may become generally known among persons interested, a notice stating—

(*a*) the effect of their proposed recommendations, and that a copy of those recommendations is open to inspection at a specified place in each of the proposed constituencies; and

(*b*) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice;

and the Commission shall take into consideration any representations duly made in accordance with any such notice.

(5) As soon as may be after the Election Commission have submitted their report on the State to the Prime Minister, he shall lay the report before the House of Representatives.

(6) Together with the report there shall be laid before the House the draft of an order for giving effect with or without modifications to the recommendations contained in the report, and a draft order for that purpose shall not be submitted to the Yang di-Pertuan Agong until the House has been given the opportunity to debate the report on a motion relating to such an order.

(7) If, on such a motion, the draft order is approved by resolution of the House, it shall be submitted to the Yang di-Pertuan Agong in the form in which it is so approved.

(8) If, on such a motion, the draft order is not so approved, then unless the Prime Minister thinks fit to lay a further draft before the House (in which event this and the preceding sub-section shall apply to that draft as they apply to the draft first laid before the House), the draft order shall be submitted to the Yang di-Pertuan Agong with such modifications (if any) as the Prime Minister thinks fit having regard to the debate on the draft order.

(9) Before a draft order is submitted to the Yang di-Pertuan Agong, under sub-section (8) or a further draft laid instead before the House, the Prime Minister shall have such consultation with the Election Commission as he may consider necessary.

FIRST SCHEDULE

INSERTION OF NEW ARTICLES IN CONSTITUTION

Article	*Articles of Constitution*	*Sections of Act, and provision for insertion*
1	The name, States and territories of the Federation.	Section 4 of the Act is to be inserted as Article 1, in place of the present Article.
14	Citizenship by operation of law.	Sections 23 and 25 of the Act are to be inserted as Articles 14 and 15 respectively, in place of the present Articles.
15	Citizenship by registration (wives and children of citizens).	
16A	Citizenship by registration (persons resident in Borneo States on Malaysia Day).	Section 26 of the Act is to be inserted as Article 16A, after the present Article 16.
19	Citizenship by naturalisation.	Sections 27 and 28 of the Act are to be inserted as Articles 19 and 19A respectively, in place of the present Article 19.
19A	Transfer of citizenship to and from Singapore.	
28A	Deprivation of citizenship (Singapore citizens, and persons becoming citizens on Malaysia Day).	Section 30 of the Act is to be inserted as Article 28A, after the present Article 28.
30A	Franchise, etc., of Singapore citizens and other citizens.	Sections 31 and 32 of the Act are to be inserted as Articles 30A and 30B respectively, after the present Article 30.
30B	Liaison as to citizenship between governments of Federation and Singapore.	
46	Composition of House of Representatives.	Section 9 of the Act is to be inserted as Article 46, in place of the present Article.
76A	Power of Parliament to extend legislative powers of States.	Section 37 of the Act is to be inserted as Article 76A, after the present Article 76.
88	Application of Articles 83 to 87 to States not having a Ruler.	Section 44 of the Act is to be inserted as Article 88, in place of the present Article.
95B	Modifications for Borneo States and Singapore of distribution of legislative powers.	Sections 35, 38, 42 and 43 of the Act are to be inserted as Articles 95B, 95C, 95D and 95E respectively, after the present Article 95A, and are to become Chapter 8 of Part VI under the heading " Application to Borneo States and Singapore ".
95C	Power by order to extend legislative or executive powers of Borneo States.	
95D	Exclusion for Borneo States and Singapore of Parliament's power to pass uniform laws about land or local government.	
95E	Exclusion of Borneo States and Singapore from national plans for land utilisation, local government, development, etc.	

Article	Articles of Constitution	Sections of Act, and provision for insertion
112A	State audits in Borneo States and Singapore.	Sections 50, 49, 46, 47 and 48 of the Act are to be inserted as Articles 112A, 112B, 112C, 112D, and 112E respectively, after the present Article 112, and are to become Chapter 2 of Part VII under the heading " Application to Borneo States and Singapore ", with Articles 96 to 112 becoming Chapter 1 under the heading " General ".
112B	Borrowing powers of Borneo States and Singapore.	
112C	Special grants and assignments of revenue to Borneo States.	
112D	Reviews of special grants to Borneo States.	
112E	Financial arrangements with Singapore.	
121	Judicial power of the Federation.	Sections 13, 15, 16, 17, 18, 19 and 20 of the Act are to be inserted as Articles 121, 122, 122A, 122B, 122C, 123 and 124 respectively, in place of the present Articles 121 to 124.
122	Constitution of Federal Court.	
122A	Constitution of High Courts.	
122B	Appointment of Judges of Federal Court and of High Courts.	
122C	Transfer of judge of one High Court to another.	
123	Qualifications of judges of Federal Court and of High Courts.	
124	Oath of office of judges.	
128	Jurisdiction of Federal Court.	Section 14 of the Act is to be inserted as Article 128, in place of the present Articles 128 and 129.
131A	Provision for incapacity, etc., of Lord President or Chief Justice.	Section 21 of the Act is to be inserted as Article 131A, after the present Article 131.
138	Judicial and Legal Service Commission.	Section 52 of the Act is to be inserted as Article 138, after the present Article 137.
146A	Branches in Borneo States and in Singapore of Judicial and Legal Service Commission.	Sections 54, 55, 56 and 57 of the Act are to be inserted as Articles 146A, 146B, 146C and 146D respectively, after the present Article 146.
146B	Branches in each Borneo State and in Singapore of Public Services Commission.	
146C	Supplementary provisions as to branches of Commissions.	
146D	Jurisdiction of Police Force Commission over seconded members of State service in Borneo States.	
159A	Operation of transitional provisions of Malaysia Act.	Section 71 of the Act is to be inserted as Article 159A, after the present Article 159.

Article	*Articles of Constitution*	*Sections of Act, and provision for insertion*
161	Use of English and of native languages in Borneo States.	Sections 61, 62, 63, 64, 65 and 66 of the Act are to be inserted as Articles 161, 161A, 161B, 161C, 161D, and 161E respectively, after the present Article 160, and are to become, with Articles 161F to 161H, Part XIIA under the heading " Additional protections for Borneo States and Singapore ", and to be Chapter 1 of that Part under the heading " Borneo States ".
161A	Special position of natives in Borneo States.	
161B	Restriction on extension to non-residents of right to practise before courts in Borneo States.	
161C	Muslim education in Borneo States.	
161D	Freedom of religion.	
161E	Safeguards for constitutional position of Borneo States.	
161F	Use of unofficial languages in Singapore Assembly.	Sections 67, 68 and 69 of the Act are to be inserted as Articles 161F, 161G and 161H respectively, after the new Article 161E, and are to become Chapter 2 of the new Part XIIA under the heading " Singapore ".
161G	Special position of Malays in Singapore.	
161H	Safeguards for constitutional position of Singapore.	

SECOND SCHEDULE

SECTION ADDED TO EIGHTH SCHEDULE TO CONSTITUTION

23. (1) Part I of this Schedule shall apply to the States of Sabah, Sarawak and Singapore as it applies to the States of Penang and Malacca except for the modifications of section 10 stated in subsection (2) of this section.

(2) Section 10 in its application to the State of Sabah, Sarawak or Singapore may be modified by the substitution for the words " one of its members to be Speaker " in sub-section (1) of the words " as Speaker such person as the Assembly may determine ", by the omission of the word " other " in sub-section (3), and by the addition of a sub-section (4)—

> " (4) A person shall not be chosen to be Speaker, unless he is a member or qualified to be a member of the Legislative Assembly, and the Speaker, whether a member or not, shall vacate his office on the dissolution of the Assembly, and may at any time resign his office."

THIRD SCHEDULE

CITIZENSHIP (AMENDMENT OF SECOND SCHEDULE TO CONSTITUTION)

PART I

CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN BEFORE MALAYSIA DAY, OTHER THAN SINGAPORE CITIZENS

1. (1) Subject to the provisions of Part III of this Constitution and anything done thereunder before Malaysia Day, the following persons born before Malaysia Day are citizens by operation of law, that is to say:

(*a*) every person who immediately before Merdeka Day, was a citizen of the Federation by virtue of any of the provisions of the Federation of Malaya Agreement, 1948, whether by operation of law or otherwise ;

(*b*) every person born within the Federation on or after Merdeka Day, and before October, 1962;

(*c*) every person born within the Federation after September, 1962, of whose parents one at least was at the time of the birth either a citizen or permanently resident in the Federation, or who was not born a citizen of any other country;

(*d*) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of his birth and either was born in the Federation or was at the time of the birth in service under the Government of the Federation or of a State;

(*e*) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of the birth if the birth was, or is, within one year of its occurrence or within such longer period as in any particular case was or is allowed by the Federal Government, registered at a consulate of the Federation or, if it occurred in Singapore, Sarawak, Brunei or North Borneo, registered with the Federal Government.

2. Subject to the provisions of Part III of this Constitution, a person ordinarily resident in a Borneo State or in Brunei on Malaysia Day is a citizen by operation of law if he was immediately before that day a citizen of the United Kingdom and Colonies, and either—

(*a*) was born in the territories comprised in the Borneo States; or

(*b*) became such a citizen by registration in those territories or by or in consequence of naturalisation there.

Part II

Citizenship by Operation of Law of Persons born on or after Malaysia Day, other than Singapore Citizens

1. Subject to the provisions of Part III of this Constitution, the following persons born on or after Malaysia Day are citizens by operation of law, that is to say:

(*a*) every person born within the Federation outside Singapore of whose parents one at least is at the time of the birth either a citizen, but not a Singapore citizen, or permanently resident in the Federation; and

(*b*) every person born outside the Federation whose father is at the time of the birth a citizen, but not a Singapore citizen, and either was born in the Federation or is at the time of the birth in the service of the Federation or of a State; and

(*c*) every person born outside the Federation whose father is at the time of the birth a citizen, but not a Singapore citizen, and whose birth is, within one year of its occurrence or within such longer period as the Federal Government may in any particular case allow, registered at a consulate of the Federation or, if it occurs in Brunei or in a territory prescribed for this purpose by order of the Yang di-Pertuan Agong, registered with the Federal Government; and

(*d*) every person born in Singapore of whose parents one at least is at the time of the birth a citizen, but not a Singapore citizen, and who is not born a citizen otherwise than by virtue of this paragraph; and

(*e*) every person born within the Federation outside Singapore who is not born a citizen of any country otherwise than by virtue of this paragraph.

2. (1) A person is not a citizen by virtue of paragraph (*a*), (*d*) or (*e*) of section 1 if, at the time of his birth, his father, not being a citizen, possesses such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong, or if his father is then an enemy alien and the birth occurs in a place under the occupation of the enemy.

(2) In section 1 the reference in paragraph (*b*) to a person having been born in the Federation includes his having been born before Malaysia Day in the territories comprised in the Borneo States or Singapore.

(3) For the purposes of paragraph (*e*) of section 1 a person is to be treated as having at birth any citizenship which he acquires within one year afterwards by virtue of any provision corresponding to paragraph (*c*) of that section or otherwise.

PART III

ADDITIONAL SECTIONS AS TO CITIZENSHIP BY OPERATION OF LAW

19A. For the purposes of Part I or II of this Schedule a person born on board a registered ship or aircraft shall be deemed to have been born in the place in which the ship or aircraft was registered, and a person born on board an unregistered ship or aircraft of the Government of any country shall be deemed to have been born in that country.

19B. For the purposes of Part I or II of this Schedule any new born child found exposed in any place shall be presumed, until the contrary is shown, to have been born there of a mother permanently resident there ; and if he is treated by virtue of this section as so born, the date of the finding shall be taken to be the date of the birth.

19C. For the purposes of Part I or II of this Schedule a person shall be treated as having been at any time permanently resident in the Federation if, but only if, he was then resident in the Federation and either—

(*a*) he then had permission, granted without limit of time under any federal law, to reside there ; or

(*b*) it is certified by the Federal Government that he is to be treated for those purposes as a permanent resident in the Federation.

PART IV

MISCELLANEOUS AMENDMENTS OF SUPPLEMENTARY PROVISIONS

1. At the end of section 4 (which enables the Minister to delegate among other things certain functions preliminary to the making of an order under Article 26) there shall be added as sub-sections (2) and (3)—

"(2) The Minister may also, with the consent of the Governor of the State, delegate to an authority of a Borneo State or of Singapore (subject or not to conditions providing for an appeal from that authority to the Minister) any of the Minister's functions under Clause (6) of Article 28A which are not required to be delegated by Clause (7) of that Article.

(3) Sub-section (1) shall apply to enrolments under Clause (2) of Article 19A as it applies to citizenship by registration, and to the cancellation under Clause (4) of Article 19A of an enrolment under that Article as it applies to an order under Article 26."

2. For section 7 there shall be substituted—

"7. Any power of the Federal Government to extend, for purposes of Part III of this Constitution, the period for registering a birth at a consulate of the Federation may be exercised either before or after the registration has been effected".

3. (1) In section 10, in sub-section (1), before the words "Article 30" there shall be inserted the words "Clause (1) of", and for paragraph (*e*) there shall be substituted—

"(*e*) a register of persons enrolled under Article 19A as citizens who are not Singapore citizens;

(*f*) an alphabetical index of all persons referred to in paragraphs (*a*) to (*e*)."

(2) In section 10, for sub-section (2), there shall be substituted—

"(2) References in this section to citizens by registration or by naturalisation shall be construed in accordance with Articles 28 and 28A as if this section were included among the provisions to which those Articles apply, except that 'citizen by registration' does not include any Singapore citizen."

4. In section 16 (which makes it an offence among other things to forge or misuse a certificate) for sub-section (2) there shall be substituted—

"(2) In this section 'certificate' means any certificate of the following descriptions issued under Part III of this Constitution or under the Constitution of the State of Singapore or any previous law relating to citizenship of Singapore, that is to say,—

(*a*) any certificate of registration or of naturalisation as a citizen; and

(*b*) any certificate of a registration effected at a consulate of the Federation or elsewhere outside the Federation; and

(*c*) any such certificate as is mentioned in Article 30."

5. For section 17 there shall be substituted—

"17. For purposes of Part III of this Constitution references to a person's father or to his parent, or to one of his parents, are in relation to a person who is illegitimate to be construed as references to his mother, and accordingly section 19 of this Schedule shall not apply to such a person."

6. In section 18 before the words "Article 15" there shall be inserted the words "Clause (3) of", and for the words "that Article and this Schedule" there shall be substituted the words "that Clause and section 9 of this Part of this Schedule".

7. At the end of section 19 there shall be added—

"This section shall have effect in relation to Malaysia Day as it has effect in relation to Merdeka Day."

8. At the end of section 20 there shall be added—

"(4) This section shall apply in relation to any part of the Federation and the territories comprised in that part before Malaysia Day as it applies in relation to the Federation as a whole, and the reference in sub-section (1) (*d*) to the service of a State shall include, in relation to those territories, the service of any government having jurisdiction therein before Malaysia Day; and in relation to Malaysia Day or any later day sub-section (3) shall apply as if the territories comprised in the Borneo States or Singapore had at all times formed part of the Federation."

9. In section 21 for the words " Malayan consulate " there shall be substituted the words " consulate of the Federation ".

10. There shall be omitted in section 4 the words " or this Schedule ", and in section 6 the words " and this Schedule " ; and after section 21 there shall be added as a new section 22—

> " 22. Except in so far as the context otherwise requires, references in this Schedule to Part III of this Constitution are to be read as including references to this Schedule."

Fourth Schedule

SPECIAL LEGISLATIVE LISTS FOR BORNEO STATES AND SINGAPORE

Part I

Borneo States

List IIA—Supplement to State List for Borneo States

13. Native law and custom, including the personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate ; registration of adoptions under native law or custom ; the determination of matters of native law or custom ; the constitution, organization, and procedure of native courts (including the right of audience in such courts), and the jurisdiction and powers of such courts, which shall extend only to the matters included in this paragraph and shall not include jurisdiction in respect of offences except in so far as conferred by federal law.

14. Incorporation of authorities and other bodies set up by State law, if incorporated directly by State law, and regulation and winding-up of corporations so created.

15. Ports and harbours, other than those declared to be federal by or under federal law ; regulation of traffic by water in ports and harbours or on rivers wholly within the State, except traffic in federal ports or harbours ; foreshores.

16. Cadastral land surveys.

17. Libraries, museums, ancient and historical monuments and records and archaeological sites and remains, other than those declared to be federal by or under federal law.

18. In Sabah, the Sabah Railway.

List IIIA—Supplement to Concurrent List for Borneo States

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate.

11. Adulteration of foodstuffs and other goods.

12. Shipping under fifteen registered tons, including the carriage of passengers and goods by such shipping ; maritime and estuarine fishing and fisheries.

13. The production, distribution and supply of water power and of electricity generated by water power.

14. Agricultural and forestry research, control of agricultural pests, and protection against such pests ; prevention of plant diseases.

15. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding-up of incorporated charities and charitable institutions in the State.

16. Theatres ; cinemas ; cinematograph films ; places of public amusement.

17. Elections to the State Assembly held during the period of indirect elections.

18. In Sabah until the end of the year 1970 (but not in Sarawak), medicine and health, including the matters specified in items 14 (*a*) to (*d*) of the Federal List.

PART II

SINGAPORE

List IIB—Supplement to State List for Singapore

13. Education, including the matters specified in items 13 (*a*) and (*b*) of the Federal List.

14. Medicine and health, including the matters specified in items 14 (*a*) to (*d*) of the Federal List.

15. Labour and social security, including the matters specified in items 15 (*a*) and (*b*), but not those specified in item 15 (*c*) of the Federal List.

16. Pensions, gratuities and other like allowances, and compensation for loss of office, in respect of service under the State (including any government service in the State before Malaysia Day).

17. Factories ; boilers and machinery ; dangerous trades ; dangerous and inflammable substances.

18. Electricity ; gas and gas works.

19. Itinerant hawkers.

List IIIB—Supplement to Concurrent List for Singapore

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate.

11. Loans to, or borrowing by, the State or statutory authorities exercising powers vested in them by the State law in Singapore.

12. (*a*) Production, supply and distribution of goods, but not bounties on production ; price control and food control ; adulteration of foodstuffs and other goods ;

(*b*) Imports into, and exports from, the Federation, but not bounties on export ;

(*c*) Insurance, including compulsory insurance ;

(*d*) Auctions and auctioneers ;

(*e*) Industries ; regulation of industrial undertakings ;

(*f*) Banking ; money-lending ; pawnbrokers.

13. Shipping and navigation, including the matters specified in items 9 (*a*), (*b*), (*c*), (*e*) and (*f*) of the Federal List.

14. Professional occupations other than those specifically enumerated in the Federal List.

15. Unincorporated societies.

16. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding-up of incorporated charities and charitable institutions in the State.

17. Newspapers ; publications ; publishers ; printing and printing presses.

18. Censorship.

19. Theatres ; cinemas ; cinematograph films ; places of public amusement.

20. Until the end of August, 1968, and thereafter until Parliament with the concurrence of the State government otherwise provides, elections to the Legislative Assembly.

FIFTH SCHEDULE

ADDITIONS FOR BORNEO STATES TO TENTH SCHEDULE (GRANTS AND ASSIGNED REVENUES) TO CONSTITUTION

PART IV

SPECIAL GRANTS TO BORNEO STATES

1. (1) In the case of Sarawak a grant of $5,800,000 in each year.

(2) In the case of Sarawak, a grant of which the amount in 1964 and each of the four following years shall be respectively $3½m., $7m., $11½m., $16m. and $21m., and in later years shall be fixed on a review under Article 112E.

2. (1) In the case of Sabah, a grant of an amount equal in each year to two-fifths of the amount by which the net revenue derived by the Federation from Sabah exceeds the net revenue which would have been so derived in the year 1963 if—

(*a*) the Malaysia Act had been in operation in that year as in the year 1964 ; and

(*b*) the net revenue for the year 1963 were calculated without regard to any alteration of any tax or fee made on or after Malaysia Day ;

(" net revenue " meaning for this purpose the revenue which accrues to the Federation, less the amounts received by the State in respect of assignments of that revenue).

(2) In the case of Sabah, for any year before 1968 in which the State road grant is less than $5,179,500, a supplement to that grant of an amount equal to the deficiency.

3. In either case, for any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or to mechanically propelled road vehicles, then during the continuance of that power, a grant equal to the cost to the State in the year of the State road transport department.

PART V

ADDITIONAL SOURCES OF REVENUE ASSIGNED TO BORNEO STATES

1. Import duty and excise duty on petroleum products.

2. Export duty on timber and other forest produce.

3. So long as the royalty levied by the State on any mineral chargeable with export duty other than tin (but including mineral oils) does not amount to 10 per cent *ad valorem* calculated as for export duty, export duty on that mineral or such part of the export duty as makes the total of royalty and duty on exported mineral up to 10 per cent *ad valorem* so calculated.

4. In the case of Sabah, so long as medicine and health remains an item in the Concurrent List and expenses in respect of that item are borne by the State, 30 per cent of all customs revenue other than that in respect of the duties mentioned in sections 1, 2 and 3.

5. For any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or with respect to mechanically propelled road vehicles or licences connected with those vehicles, then during the continuance of that power, fees from such licences.

6. For any year before 1974, and if at the beginning of 1974 the State has power to make laws with respect to the registration of mechanically propelled vehicles, then during the continuance of that power, fees from the registration of such vehicles.

7. State sales taxes.

8. Fees and dues from ports and harbours other than federal ports and harbours.

SIXTH SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS OF CONSTITUTION

Provision of Constitution	*Amendment*
Article 5 (liberty of the person)	In Clause (2) for the words " the Supreme Court " there shall be substituted the words " a High Court ".
Article 8 (right to equal treatment)	In Clause (5) for the word " Federation " there shall be substituted the words " Malay Peninsula ".
Article 21 (general provisions as to naturalisation)	The Article shall be omitted except that it shall continue to have effect for the purposes of the Article 20 repealed by the Constitution (Amendment) Act, 1962.
Article 37 (oath of office of Yang di-Pertuan Agong)	For the words " Chief Justice of the Federation " and for the words " Supreme Court " there shall, in both places, be substituted respectively the words " Lord President of the Federal Court " and the words " Federal Court ".
Article 42 (Power of pardon, etc.)	In Clause (7) after the word " appointed " there shall be inserted the words " by the Ruler or Governor ".
Article 48 (disqualification for membership of Parliament)	In Clause (1), in paragraph (*e*), after the word " Federation " there shall be inserted the words " (or, before Malaysia Day, in the territories comprised in a Borneo State or in Singapore) ".
Article 65 (Clerks of Senate and House of Representatives)	In Clause (3) for the words " Supreme Court " there shall be substituted the words " Federal Court ".
Article 76 (power of Parliament to legislate for States)	In Clause (2) after the words " custom of the Malays " there shall be inserted the words " or to any matters of native law or custom in the Borneo States ".
Article 80 (distribution of executive powers)	In Clause (6) for the words " Chief Justice " there shall be substituted the words " Lord President of the Federal Court ".

Provision of Constitution	*Amendment*
Article 87 (reference of certain disputes to Lands Tribunal)	In Clause (2), for paragraph (*a*) there shall be substituted— " (*a*) a chairman, who shall be appointed by the Lord President of the Federal Court and who shall be, or have been, or be qualified to be a judge of the Federal Court or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court "; and at the end of Clause (3) there shall be added the words " or other authority having power under written law to make rules or orders regulating the practice and procedure of the Federal Court ", and in Clause (4) for the words " Supreme Court " there shall be substituted the words " Federal Court ".
Article 89 (Malay reservations)	In Clause (7) there shall be inserted at the beginning the words " Subject to Article 161A ".
Article 91 (National Land Council)	In Clause (1) the words " not exceeding ten " shall be omitted, and there shall be added at the end of the Clause the words " but, subject to Clause (6) of Article 95E, the number of representatives of the Federal Government shall not exceed ten ".
Article 95A (National Council for Local Government)	In Clause (1) the words " not exceeding ten " shall be omitted, and there shall be added at the end of the Clause the words " but, subject to Clause (6) of Article 95E, the number of representatives of the Federal Government shall not exceed ten ".
Article 105 (Auditor-General)	In Clause (3) for the words " Supreme Court " there shall be substituted the words " Federal Court ".
Article 114 (Constitution of Election Commission)	In Clause (3) for the words " Supreme Court " there shall be substituted the words " Federal Court ".
Article 115 (assistance to Election Commission)	In Clause (2) for the words " Federation, who " there shall be substituted the words " unit of review for federal elections, and those officers ".
Article 116 (federal constituencies)	In Clause (1) for the words " the Federation " there shall be substituted the words " a unit of review ", and in Clause (2) after the words " that total " there shall be inserted the words " in the States of Malaya ".
Article 118 (challenging election by presentation of election petition)	For the words " a judge of the Supreme Court " there shall be substituted the words " the High Court having jurisdiction where the election was held ".
Article 139 (Public Services Commission)	In Clause (2) for the words " Commission corresponding in status and jurisdiction to the Public Services " there shall be substituted the words " State Public Service ".
Article 142 (general provisions as to Public Services Commission and other Commissions to which Part X applies)	In Clause (6) for the words " a judge of the Supreme Court " there shall be substituted the words " a judge of the Federal Court or of a High Court ".

Provision of Constitution	*Amendment*
Article 143 (conditions of service of members of Service Commissions)	In Clause (1) for the words " Supreme Court " in paragraph (*c*) there shall be substituted the words " Federal Court ".
Article 144 (functions of Service Commissions)	In Clause (4) for the words from " of any Ruler " to " jurisdiction " there shall be substituted the words " a State Public Service Commission ".
Article 145 (the Attorney-General)	For the words " Supreme Court " there shall, in both places, be substituted the words " Federal Court ", and after the words " Muslim Court " there shall be inserted the words " a native court "; and these amendments shall be made both in the Article to be inserted in pursuance of the Constitution (Amendment) Act, 1960, and in the Article for which it is to be substituted.
Article 148 (interpretation of Part X)	In Clause (2) for the words " Supreme Court " there shall be substituted the words " Federal Court or of a High Court ".
Article 151 (restrictions on preventive detention)	In Clause (2) for the words from " from " to " Court, and " there shall be substituted the words " and who shall be or have been, or be qualified to be, a judge of the Federal Court or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court, and ", and for the words " Chief Justice " there shall, where they first occur, be substituted the words " Lord President of the Federal Court ", and the words from " or if " onwards shall be omitted.
Article 152 (national language)	In Clause (4) for the words " the Supreme Court " there shall be substituted the words " the Federal Court or a High Court ".
Article 158 (Pan-Malayan arrangements)	In Clause (1) for the words " any territory to which this article applies " there shall, in each place be substituted the word " Brunei ", and Clause (2) shall be omitted.
Article 159 (amendment of the Constitution)	In Clause (1) after the word " Article " there shall be inserted the words " and to Articles 161E and 161H "; and in Clause (4) there shall be inserted at the beginning of paragraph (*bb*) the words " subject to Article 161E ".
Article 160 (interpretation)	In Clause (2), before the definition of " Act of Parliament " there shall be inserted the definition— " aborigine " means an aborigine of the Malay Peninsula; after the definition of " Legislature " there shall be inserted the definition— " local rates ", in relation to Singapore, includes the property tax levied for local purposes by the State; in the definition of " Malay ", after the word " Federation ", there shall in all places be inserted the words " or in Singapore "; in the definition of " public authority " for the words " Supreme Court " there shall be substituted the words " Federal Court and High Courts "; and the definition of " Rule Committee" shall be omitted.

Provision of Constitution	*Amendment*
Article 174 (judicial appointments)	The Article shall be omitted.
Fourth Schedule (oaths of office of Yang di-Pertuan Agong and Timbalan Yang di-Pertuan Agong)	In Parts I and II for the words " Persekutuan Tanah Melayu " and in Part III for the words " the Federation of Malaya " there shall in all places be substituted the word " Malaysia ".
Sixth Schedule (forms of oaths and affirmations)	For the words " the Federation of Malaya " there shall, in both places, be substituted the word " Malaysia "; and after the form of the oath of office and allegiance there shall be added, as a note to that form,—" (NOTE: *A judge of the Federal Court, other than the Lord President, or a judge of a High Court shall use the words ' my judicial duties in that or any other office ' in place of the words ' the duties of that office '*.)".
Eighth Schedule (provisions to be inserted in State Constitutions)	In section 3 for the words " to be known as the Dewan Negeri " there shall be substituted the words " namely, the "; in sub-section (1) of section 4 the words from " and " onwards shall be omitted; in section 6, in paragraph (*e*) of sub-section (1), after the word " Federation " there shall be inserted the words " (or, before Malaysia Day, in the territories comprised in the Borneo States or in Singapore) "; and in section 22 there shall be omitted the words " and Chief Minister ", the word " respectively " and the words " and the Mentri Besar ".
Ninth Schedule (legislative lists)	In List I, in item 1 (*h*), for the word "Malaya" there shall be substituted the word " Malaysia "; in item 4 (*k*) after the words " Muslim law " there shall be inserted the words " and other personal laws "; in item 8 (*j*) there shall be inserted at the beginning the words " Subject to item 2 (*c*) in the State List : " and in item 11 (*b*) for the woıds from " Inter-State " to " not " there shall be substituted the words " Water supplies, rivers and canals, except those wholly within one State or ". In List II, in item 2 (*b*) there shall be added at the end the words " or, in the Borneo States, native reservations "; and in item 6 (*c*) for the words from the beginning to " canals " there shall be substituted the words " Subject to the Federal List, water (including water supplies, rivers and canals) ".
Eleventh Schedule (provisions of Interpretation and General Clauses Ordinance, 1948, applied)	There shall be inserted in the first column, in the place required by the numerical order, the words " 23 ", and opposite them in the second column— " *General provisions with respect to power given to any authority to make subsidiary legislation—* Where an Ordinance or Enactment confers power on any authority to make subsidiary legislation, such subsidiary legislation may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made."

Provision of Constitution	*Amendment*
Thirteenth Schedule (delimitation of constituencies)	In section 1 for the words from " those " onwards there shall be substituted the words " those first used for elections to the House or Assembly, as the case may be, pursuant to this Constitution or the Malaysia Act ". In section 2 for the words " the Federation and the States " there shall be substituted the words " any unit of review "; at the end of paragraph (*a*) there shall be added " and regard ought to be had to the inconveniences of State constituencies crossing the boundaries of federal constituencies "; in paragraph (*c*) after the word " equal " there shall be inserted the words " throughout the unit of review "; and in paragraph (*d*) for the words " and of any local ties which may be broken by such alterations " there shall be substituted " and to the maintenance of local ties ". In section 8, in paragraph (*a*), for the words " the Federation and each State " there shall be substituted the words " each unit of review ". In section 12 for the words from " until " in the proviso onwards there shall be substituted the words " to the House of Representatives or a Legislative Assembly until the next dissolution of Parliament or the Assembly, as the case may be, occurring on or after that date ".

ANNEX B

THE CONSTITUTION OF THE STATE OF SABAH

TABLE OF CONTENTS

PART I

THE STATE GOVERNMENT

Chapter 1—The Head of State

PART III

FINANCIAL PROVISIONS

PART IV

THE PUBLIC SERVICE

PART V

GENERAL PROVISIONS

PART VI

TRANSITIONAL PROVISIONS

THE CONSTITUTION OF THE STATE OF SABAH

PART I

THE STATE GOVERNMENT

Chapter 1—The Head of State

1. (1) There shall be a Head of State for Sabah, to be called the Yang di-Pertua Negara, who shall be appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the Chief Minister. Yang di-Pertua Negara.

(2) The Yang di-Pertua Negara shall be appointed for a term of four years but may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong, and may be removed from office by the Yang di-Pertuan Agong in pursuance of an address by the Legislative Assembly supported by the votes of not less than two-thirds of the total number of the members thereof.

(3) The Yang di-Pertuan Agong, acting in his discretion but after consultation with the Chief Minister, may appoint a person to exercise the functions of the Yang di-Pertua Negara during any period during which the Yang di-Pertua Negara is unable to do so himself owing to illness, absence or any other cause; but no person shall be so appointed unless he would be qualified to be appointed as Yang di-Pertua Negara.

(4) A person appointed under clause (3) may take the place of the Yang di-Pertua Negara as a member of the Conference of Rulers during any period during which, under that clause, he may exercise the functions of the Yang di-Pertua Negara.

2. (1) A person who is not a citizen or is a citizen by naturalisation shall not be appointed as Yang di-Pertua Negara. Qualifications and disabilities of Yang di-Pertua Negara.

(2) The Yang di-Pertua Negara shall not hold any office of profit and shall not actively engage in any commercial enterprise.

3. The Legislature shall by law provide a Civil List of the Yang di-Pertua Negara, which shall be a charge on and paid out of the Consolidated Fund and shall not be diminished during his continuance in office. Civil List of Yang di-Pertua Negara.

4. The Yang di-Pertua Negara, and any person appointed under Clause (3) of Article 1, shall before exercising his functions take and subscribe in the presence of the Chief Justice or of a Judge of the High Court an oath in the form set out in Part I of the Schedule. Oath of office of Yang di-Pertua Negara.

Chapter 2—The Executive

5. (1) The executive authority of the State shall be vested in the Yang di-Pertua Negara but executive functions may by law be conferred on other persons. Executive authority.

State Cabinet.

6. (1) There shall be a State Cabinet to advise the Yang di-Pertua Negara in the exercise of his functions.

(2) The Cabinet shall consist of—

(*a*) a Chief Minister and not more than eight nor less than four other members appointed in accordance with clause (3); and

(*b*) three *ex officio* members, namely the State Secretary, the State Attorney-General and the State Financial Secretary.

(3) The Yang di-Pertua Negara shall appoint as Chief Minister a member of the Legislative Assembly who in his judgment is likely to command the confidence of a majority of the members of the Assembly and shall appoint the other members mentioned in paragraph (*a*) of clause (2) in accordance with the advice of the Chief Minister from among the members of the Assembly:

Provided that if an appointment is made while the Legislative Assembly is dissolved a person who was a member of the last Assembly may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.

(4) Notwithstanding anything in this Article, a person who is a citizen by naturalisation shall not be appointed Chief Minister.

(5) The Chief Minister shall not hold any office of profit and shall not actively engage in any commercial enterprise.

(6) The Cabinet shall be collectively responsible to the Legislative Assembly.

Tenure of office of members of Cabinet.

7. (1) If the Chief Minister ceases to command the confidence of a majority of the members of the Legislative Assembly, then, unless at his request the Yang di-Pertua Negara dissolves the Assembly, the Chief Minister shall tender the resignation of the members of the Cabinet other than the *ex officio* members.

(2) A member of the Cabinet other than an *ex officio* member may at any time resign his office by writing under his hand addressed to the Yang di-Pertua Negara, and a member of the Cabinet other than the Chief Minister or an *ex officio* member shall also vacate his office if his appointment thereto is revoked by the Yang di-Pertua Negara acting in accordance with the advice of the Chief Minister.

(3) Subject to clauses (1) and (2), a member of the Cabinet other than the Chief Minister or an *ex officio* member shall hold office at the pleasure of the Yang di-Pertua Negara.

Oaths of member of Cabinet.

8. Before a member of the Cabinet exercises the functions of his office he shall take and subscribe in the presence of the Yang di-Pertua Negara the oath set out in Part II of the Schedule.

Allocation of portfolios and provision regarding private business interests.

9. (1) The Yang di-Pertua Negara may, in accordance with the advice of the Chief Minister, assign to a member of the Cabinet responsibility for any business of the government of the State, including the administration of any department of government, and any member of the Cabinet, other than an *ex officio* member, to whom such responsibility is assigned shall be styled " Minister ".

(2) A member of the Cabinet shall not engage in any trade, business or profession connected with any subject or department of government for which he is responsible, and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Cabinet relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

10. (1) In the exercise of his functions under this Constitution or any other law, or as a member of the Conference of Rulers, the Yang di-Pertua Negara shall act in accordance with the advice of the Cabinet or of a member thereof acting under the general authority of the Cabinet, except as otherwise provided by the Federal Constitution or this Constitution; but shall be entitled, at his request, to any information concerning the government of the State which is available to the Cabinet.

Yang di-Pertua Negara to act on advice.

(2) The Yang di-Pertua Negara may act in his discretion in the performance of the following functions—

(*a*) the appointment of a Chief Minister;

(*b*) the withholding of consent to a request for the dissolution of the Legislative Assembly.

(3) The Legislature may by law make provision for requiring the Yang di-Pertua Negara to act after consultation with, or on the recommendation of, any person or body of persons other than the Cabinet in the exercise of any of his functions except—

(*a*) functions, exercisable in his discretion; and

(*b*) functions with respect to the exercise of which provision is made in the Federal Constitution or any other Article of this Constitution.

11. (1) The offices of State Secretary, State Attorney-General and State Financial Secretary are hereby constituted, and appointments thereto shall be made by the Yang di-Pertua Negara acting in accordance with the advice of the Chief Minister, who shall select for appointment a person whose name is included in a list submitted for the purpose by the Commission and shall, before tendering his advice, consult the Government of the Federation.

State Secretary, State Attorney-General and State Financial Secretary.

(2) The State Secretary, the State Attorney-General and the State Financial Secretary shall not be removed from office or suspended from the exercise of the functions of his office except on the like grounds and in the like manner as a member of the Commission.

Chapter 3—Capacity as respects property, contracts and suits

12. (1) The State shall have power to acquire, hold and dispose of property of any kind and to make contracts.

Capacity of State as respects property, contracts and suits.

(2) The State may sue and be sued.

PART II

THE LEGISLATURE

Constitution of Legislature.

13. The Legislature of the State shall consist of the Yang di-Pertua Negara and one House, to be known as the Legislative Assembly.

Composition of Legislative Assembly.

14. (1) The Legislative Assembly shall consist of—

(*a*) the Speaker;

(*b*) three *ex officio* members, namely, the State Secretary, the State Attorney-General and the State Financial Secretary;

(*c*) such number of elected members as the Legislature may by law prescribe, elected in such manner as may be provided by Federal or State law;

(*d*) such number of other members (hereinafter referred to as "nominated members"), not being more than six, as the Yang di-Pertua Negara may appoint.

(2) Until the Legislature otherwise prescribes the number of elected members shall be eighteen.

The Speaker.

15. (1) The Speaker shall be appointed by the Yang di-Pertua Negara from among persons not subject to any of the disqualifications for appointment as nominated members of the Legislative Assembly set out in Article 17.

(2) The Speaker shall hold office for such period as may be specified in the instrument by which he is appointed, shall vacate his office—

(*a*) if he resigns it by writing under his hand addressed to the Yang di-Pertua Negara; or

(*b*) if he becomes subject to any of the disqualifications for appointment as a nominated member of the Legislative Assembly set out in Article 17.

(3) Any question whether a person is qualified to be appointed as Speaker shall be determined by the Yang di-Pertua Negara whose decision shall be final.

(4) During any absence of the Speaker from a sitting of the Legislative Assembly or any vacancy in the office of Speaker such member of the Assembly as may be determined by the Standing Orders of the Assembly shall act as Speaker.

(5) The Legislature shall by law provide for the remuneration of the Speaker, and the remuneration so provided shall be a charge on and paid out of the Consolidated Fund, and shall not be diminished as respects any holder of the office of Speaker after his appointment.

Qualifications of members.

16. Every citizen of or over the age of twenty-one years who is resident in the State is qualified to be elected as an elected member or appointed as a nominated member of the Legislative Assembly, unless he is disqualified for being a member by the Federal Constitution or this Constitution or by any such law as is mentioned in Article 17.

17. (1) Subject to the provisions of this Article, a person is disqualified for being elected as an elected member or appointed as a nominated member of the Legislative Assembly if— Disqualification for membership of Legislative Assembly.

(*a*) he is and has been found or declared to be of unsound mind;

(*b*) he is an undischarged bankrupt;

(*c*) he holds an office of profit other than that of Native Chief;

(*d*) having been nominated for election to either House of Parliament or to the Legislative Assembly, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required;

(*e*) he has been convicted of an offence by a court of law in any part of the Federation and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand dollars and has not received a free pardon in respect thereof;

(*f*) he is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Legislative Assembly by reason of having been convicted of such an offence, or having in proceedings relating to such an election been proved guilty of an act constituting such an offence; or

(*g*) he has voluntarily acquired citizenship of, or exercised rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country.

(2) Paragraph (*c*) of clause (1) shall not apply to the appointment of a person as a nominated member.

(3) The disqualification of a person under paragraph (*d*) or paragraph (*e*) of clause (1) may be removed by the Yang di-Pertua Negara and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in paragraph (*d*) of that clause was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in paragraph (*e*) of that clause was released from custody, or the date on which the fine mentioned in that paragraph was imposed; and a person shall not be disqualified under paragraph (*g*) of clause (1) by reason only of anything done by him before he became a citizen.

(4) In paragraph (*g*) of clause (1) " foreign country " has the same meaning as in the Federal Constitution.

18. (1) Every elected or nominated member of the Legislative Assembly shall vacate his seat in the Assembly on a dissolution of the Assembly. Tenure of seats of members.

(2) An elected or nominated member shall also vacate his seat in the Assembly if—

(*a*) he ceases to be qualified for election or appointment as such a member of the Assembly;

(*b*) he resigns his seat by writing under his hand addressed to the Speaker; or

(c) he is absent without the leave of the Speaker from every sitting of the Assembly for three consecutive meetings.

(3) for the purposes of paragraph (*c*) of clause (2), "meeting" means any sitting or sittings of the Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Assembly is adjourned *sine die* or at the conclusion of a session.

Decision as to disqualification.

19. If any question arises whether the Speaker or a member of the Legislative Assembly has ceased to be qualified for appointment or election as such, the decision of the Assembly shall be taken and shall be final:

Provided that this Article shall not be taken to prevent the practice of the Council postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

Penalty for unqualified person sitting or voting in the Legislative Assembly.

20. Any person who sits or votes in the Legislative Assembly, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty not exceeding two hundred dollars for each day on which he so sits or votes, which penalty shall be recoverable as a civil debt in the High Court at the suit of the State Attorney-General.

Summoning, prorogation and dissolution of Legislative Assembly.

21. (1) The Yang di-Pertua Negara may from time to time summon the Legislative Assembly, and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Yang di-Pertua Negara may prorogue or dissolve the Legislative Assembly.

(3) The Legislative Assembly shall, unless sooner dissolved, continue for five years from the date of its first sitting and shall then stand dissolved.

(4) Whenever the Legislative Assembly is dissolved, a general election shall be held within sixty days from the date of the dissolution and the new Legislative Assembly shall be summoned to meet on a date not later than ninety days from that date.

(5) Whenever the seat of an elected member has become vacant for any reason other than a dissolution, the vacancy shall, within sixty days from the date on which it is established that there is a vacancy, be filled by election in accordance with the provisions of this Constitution.

Oath of Speaker and members.

22. (1) The Speaker shall before exercising the functions of his office take and subscribe before the Yang di-Pertua Negara the oath set out in Part III of the Schedule and every member of the Legislative Assembly shall before taking his seat take and subscribe the said oath before the Speaker.

(2) If a member has not taken his seat within three months from the date on which the Legislative Assembly first sits after his election or appointment, or within such further period as the Assembly may allow, his seat shall become vacant.

23. The Yang di-Pertua Negara may address the Legislative Assembly and may send messages thereto. Address by Yang di-Pertua Negara.

24. (1) Subject to the provisions of this Constitution, the Legislative Assembly shall regulate its own procedure and may make Standing Orders for that purpose. Procedure of Legislative Assembly.

(2) The Legislative Assembly may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled to be present or to participate shall not invalidate any proceedings.

(3) Subject to clauses (5) and (6) and to clause (2) of Article 43, the Legislative Assembly shall, if not unanimous, take its decision by a simple majority of members voting ; and if the Speaker is absent the member presiding shall cast his vote whenever necessary to avoid an equality of votes but shall not vote in any other case, and if the Speaker is present and there is an equality of votes upon any question the motion shall be lost.

(4) Members absent from the Legislative Assembly shall not be allowed to vote.

(5) The Standing Orders of the Legislative Assembly may provide, as respects any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes.

(6) No Bill making provision for controlling or restricting the propagation of any religious doctrine or belief among persons professing the Muslim religion shall be passed by the Legislative Assembly unless it has been supported on the second and third readings by the votes of not less than two thirds of the total number of the members thereof.

(7) No Bill or amendment involving expenditure from the Consolidated Fund may be introduced or moved in the Legislative Assembly except by a member of the Cabinet.

(8) For a period of ten years after Malaysia Day, and thereafter until the Legislature by law otherwise provides, all proceedings in the Legislative Assembly may be in the English language.

(9) If objection is taken by any member present that there are present (besides the Speaker or member presiding) fewer than one quarter of the total number of members and after such interval as may be prescribed in the Standing Orders of the Legislative Assembly, the person presiding ascertains that the number of members present is still less than one quarter of the total number of members, he shall thereupon adjourn the Assembly.

Privileges of the Legislative Assembly and members.

25. Subject to Article 72 of the Federal Constitution, it shall be lawful for the Legislature by law to determine and regulate the privileges, immunities or powers of the Legislative Assembly; but no such privileges, immunities or powers shall exceed those of the Federal House of Representatives.

Exercise of legislative power.

26. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Legislative Assembly and assented to by the Yang di-Pertua Negara.

(2) All laws passed by the Legislature shall be styled Enactments and the words of enactment shall be " Enacted by the Legislature of the State of Sabah ".

(3) A Bill shall become law on being assented to by the Yang di-Pertua Negara, but no law shall come into force until it has been published in the Gazette, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect.

Supremacy of Constitution.

27. Any Enactment passed on or after Malaysia Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.

PART III

FINANCIAL PROVISIONS

No taxation unless authorised by law.

28. No tax or rate shall be levied by or for the purposes of the State except by or under the authority of law.

Consolidated Fund.

29. (1) All revenues and moneys howsoever raised or received by the State from whatsoever source shall, subject to this Constitution and any law, be paid into and form one fund to be known as " the Consolidated Fund ".

(2) There shall be charged on and paid out of the Consolidated Fund, in addition to any grant, remuneration or other moneys so charged by any other provision of this Constitution or by State law—

(*a*) all debt charges for which the State is liable; and

(*b*) any moneys required to satisfy any judgment, decision or award against the State by any court or tribunal.

(3) For the purposes of this Article, " debt charges " include interest, sinking fund charges, repayment or amortisation of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Annual financial statement.

30. (1) The Yang di-Pertua Negara shall, in respect of every financial year, cause to be laid before the Legislative Assembly a statement of the estimated receipts and expenditure of the State for that year, and, unless the Legislature in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year.

(2) The estimates of expenditure shall show separately—

(*a*) the total sums required to meet expenditure charged on the Consolidated Fund ; and

(*b*) subject to clause (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.

(3) The sums referred to in paragraph (*b*) of clause (2) do not include—

(*a*) sums representing the proceeds of any loan raised by the State for specific purposes and appropriated for those purposes by the law authorising the raising of the loan ;

(*b*) sums representing any money or interest on money received by the State subject to a trust and to be applied in accordance with the terms of the trust ; and

(*c*) sums representing any money held by the State which has been received or appropriated for the purpose of any trust fund established by or in accordance with State law.

(4) The statement of estimated receipts and expenditures shall also show, so far as is practicable, the assets and liabilities of the State at the end of the last completed financial year, the manner in which those assets are invested or held and the general heads in respect of which those liabilities are outstanding.

31. The heads of expenditure to be met from the Consolidated Fund in respect of any financial year but not charged thereon, other than expenditure to be met by such sums as are mentioned in clause (3) of Article 30, shall be included in a Bill, to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet the expenditure and the appropriation of those sums for the purposes specified therein. **Supply Bills.**

32. If in respect of any financial year it is found— **Supplementary and excess expenditure.**

(*a*) that the amount appropriated by the Supply Enactment for any purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Enactment ; or

(*b*) that any moneys have been expended for any purpose in excess of the amount, if any, appropriated for that purpose by the Supply Enactment,

a supplementary estimate showing the sums required or spent shall be laid before the Legislative Assembly, and the heads of any such expenditure shall be included in a Supply Bill.

33. (1) Subject to the following provisions of this Article, no moneys shall be withdrawn from the Consolidated Fund unless they are— **Withdrawals from Consolidated Fund.**

(*a*) charged on the Consolidated Fund ; or

(*b*) authorised to be issued by a Supply Enactment.

(2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by Federal law.

(3) Clause (1) shall not apply to any such sums as are mentioned in clause (3) of Article 30.

(4) The Legislature may, in respect of any financial year, by law authorise, before the passing of the Supply Enactment, expenditure for part of the year and the issue from the Consolidated Fund of any moneys required to meet that expenditure.

Public Accounts Committee.

34. The Legislative Assembly shall appoint a committee of the Assembly, to be called the Public Accounts Committee, which shall examine the accounts in respect of each financial year showing the appropriation of the sums granted by the Legislature to meet the expenditure of the State and such other accounts as may be laid before the Assembly.

Financial year.

35. For the purposes of this Part " financial year " means the period of twelve months ending on the thirty-first day of December in any year or such other day as the Legislature may by law prescribe.

PART IV

THE PUBLIC SERVICE

The Public Service Commission.

36. (1) There shall be a Public Service Commission for the State which shall consist of a Chairman and not less than three or more than eight other members, each of whom shall be appointed by the Yang di-Pertua Negara after consultation with the Chief Minister.

(2) The Yang di-Pertua Negara may after consultation with the Chief Minister, designate any member of the Commission, other than the Chairman, as a deputy chairman of the Commission:

Provided that the number of members of the Commission so designated shall not at any time exceed two.

(3) A person shall not be appointed to be a member of the Commission if he is, and shall cease to be such a member if he becomes—

(*a*) a public officer:

Provided that a public officer may be appointed to be a member of the Commission if he is on leave prior to retirement;

(*b*) a member of either House of Parliament or of the Legislative Assembly;

(*c*) a member, officer or employee of any local authority;

(*d*) a member of any trade union, or of any body or association affiliated to a trade union; or

(*e*) the holder of any office in any political association.

(4) Subject to clauses (3) and (5), every member of the Commission shall, unless he earlier resigns his office by writing under his hand addressed to the Yang di-Pertua Negara, hold office for a period of

five years from the date of his appointment or for such shorter period as may be specified in the instrument by which he is appointed.

(5) If the Chief Minister, or the Chairman of the Commission after consulting with the Chief Minister, represents to the Yang di-Pertua Negara that a member of the Commission ought to be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, the Yang di-Pertua Negara shall appoint a tribunal in accordance with clause (6) and shall refer the representation to it; and, if the tribunal so recommends, the Yang di-Pertua Negara shall remove that member from office by writing under his hand.

(6) A tribunal appointed under clause (5) shall consist of not less than three persons who hold or have held office as Judge of the Federal Court or of any High Court in the Federation or, if it appears to the Yang di-Pertua Negara expedient to make such appointment, persons who hold or have held equivalent office in any other part of the Commonwealth.

(7) A tribunal appointed under clause (5) shall regulate its own procedure and may make rules for that purpose.

(8) Where a representation has been made to the Yang di-Pertua Negara under clause (5), he may on the recommendation of the Chief Minister suspend the member concerned from the exercise of his functions pending the report of the tribunal on that representation.

(9) Where, during any period, a member of the Commission has been granted leave of absence by the Yang di-Pertua Negara or is unable, owing to his absence from the State, illness or any other cause, to discharge his functions as such a member, the Yang di-Pertua Negara may appoint as a temporary member of the Commission to exercise his functions during that period, any person who would be qualified to be appointed in his place; and the appointment of any such temporary member shall be made in the same manner as that of any other member of the Commission.

(10) Before exercising the functions of his office every member of the Commission shall take and subscribe before the Chief Justice or some other Judge of the High Court the oath in the form set out in Part IV of the Schedule.

(11) Members of the Commission shall be paid such remuneration as the Legislature may by law provide, and such remuneration shall be a charge on and paid out of the Consolidated Fund.

(12) Subject to the provisions of this Constitution, the terms of service of the members of the Commission—

(*a*) shall be such as the Legislature may by law prescribe; and

(*b*) in so far as they are not so prescribed, shall be determined by the Yang di-Pertua Negara.

(13) The remuneration and other terms of service of any member of the Commission shall not be altered to his disadvantage after his appointment.

(14) For the purposes of Clause (13), in so far as the terms of service of a member of the Commission depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any others for which he might have opted.

Functions of Commission.

37. (1) Subject to the provisions of the Federal Constitution and of this Constitution, it shall be the duty of the Commission to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the public service.

(2) The Legislature may by law provide for the exercise of other functions by the Commission.

(3) In clause (1), " member of public service " does not include any person whose remuneration is calculated at a daily rate, and " transfer " does not include transfer without a change of rank within a department of Government.

(4) The Yang di-Pertua Negara may designate as special posts any posts in the public service held by the head or deputy head of a department or by an officer who in his opinion is of similar status, and an appointment to any post so designated shall not be made in accordance with clause (1) but shall be made by the Yang di-Pertua Negara on the recommendation of the Commission.

(5) Before acting, in accordance with clause (4), on the recommendation of the Commission, the Yang di-Pertua Negara shall consider the advice of the Chief Minister and may once refer the recommendation back to the Commission in order that it may be reconsidered.

(6) State law and, subject to the provisions of any such law, regulations made by the Yang di-Pertua Negara may provide for the exercise by any public officer, or by any board of public officers, of any of the functions of the Commission under clause (1):

Provided that—

(*a*) no such law or regulations may provide for the exercise by any such officer or board of officers of any power of first appointment to the permanent or pensionable establishment or of any power of promotion (other than promotion to an acting appointment) ; and

(*b*) any person aggrieved by the exercise by any such officer or board of officers of any power of disciplinary control may appeal to the Commission within such time and in such manner as may be prescribed by any such law or regulations, and the Commission may make such order thereon as it may consider just.

(7) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate to any public officer, or to any board of public officers appointed by it, any of its functions under clause (1) in respect of any grade of members of the public service, and that officer or board shall exercise those functions under the direction and control of the Commission.

(8) In respect of members of the public service who are employed in posts ancillary to the police force, or in respect of any grade of members of the public service who are so employed, functions of the Commission may, under clause (6) or (7), be made exercisable by an officer or board of officers of the police force as if he or they were a public officer or board of public officers.

(9) No person shall be appointed under this Article to or to act in any office on the personal staff of the Yang di-Pertua Negara without the concurrence of the Yang di-Pertua Negara acting in his discretion; and the offices which are to constitute the personal staff of the Yang di-Pertua Negara for the purposes of this clause shall be such offices in the public Service as the Yang di-Pertua Negara, after consultation with the Chief Minister, may by order prescribe.

(10) The Commission shall make an annual report on the discharge of its functions to the Yang di-Pertua Negara, who shall cause copies of the report to be laid before the Legislative Assembly.

38. (1) At any meeting of the Commission three members, who shall include the Chairman or Deputy Chairman, shall form a quorum. Procedure of Commission.

(2) Subject to clause (1), the Commission may act notwithstanding any vacancy in its membership, and any proceeding of the Commission shall be valid notwithstanding that some person not entitled to do so took part therein.

(3) The Commission may, subject to the provisions of this Constitution, regulate its procedure and make rules for that purpose, and, with the consent of the Yang di-Pertua Negara, may, in connection with the discharge of its functions, confer powers and impose duties on any public officer or any authority of the Government of the State.

39. All persons of whatever race in the same grade of the service of the State shall, subject to the terms and conditions of their employment, be treated impartially. Impartial treatment of State employees.

40. Subject to the provisions of any State law, the Yang di-Pertua Negara may make regulations for all or any of the following matters, that is to say— Regulations regarding the public service.

(*a*) the division of offices in the public service into Divisions and Services;

(*b*) the prescribing of Schemes regulating the recruitment, service and promotion of public officers;

(*c*) the conduct and discipline of the public service.

Part V

GENERAL PROVISIONS

41. (1) It shall be the responsibility of the Yang di-Pertua Negara to safeguard the special position of the Natives and the legitimate interests of other communities in accordance with the provisions of this Article. Safeguarding position of Natives.

(2) The Yang di-Pertua Negara shall exercise his functions under this Constitution and under State law in such manner as may be

necessary to safeguard the special position of the Natives, and to ensure such degree of participation by Natives as he may deem reasonable in the public service of the State, and in the receipt of scholarships, exhibitions and other similar educational or training privileges or special facilities given or accorded by or with the approval of the State Government and, when any permit or licence for the operation of any trade or business is required by State law, then, subject to the provisions of that law and this Article, in such trade or business.

(3) The Yang di-Pertua Negara may, in order to ensure in accordance with clause (2) the participation by Natives in the public service and in the receipt of scholarships, exhibitions and other educational or training privileges or special facilities, give such general directions as may be required for that purpose to the Commission, or to any authority charged with responsibility for the grant of such scholarships, exhibitions or other educational or training privileges or special facilities; and the Commission or authority shall duly comply with the directions.

(4) In exercising his functions under this Constitution and under State law in accordance with clauses (1), (2) and (3), the Yang di-Pertua Negara shall not deprive any person of any office in the public service held by him or of the continuance of any scholarship, exhibition or other educational or training privileges or special facilities enjoyed by him.

(5) This Article does not derogate from the provisions of Article 39.

(6) Where by any existing State law a permit or licence is required for the operation of any trade or business the Yang di-Pertua Negara may exercise his functions under that law in such manner, or give such general directions to any authority charged under that law with the grant of such permits or licences, as may be required to ensure such degree of participation in such trade or business by Natives as the Yang di-Pertua Negara may deem reasonable; and the authority shall duly comply with the directions.

(7) Nothing in this Article shall operate to deprive or authorise the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him or to authorise a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of a person any permit or licence when the renewal or grant thereof might reasonably be expected in the ordinary course of events.

(8) Where by any State law any permit or licence is required for the operation of any trade or business, that law may make provision to ensure participation by Natives in such trade or business; but no such law shall for the purpose of ensuring such participation—

(*a*) deprive or authorise the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him; or

(*b*) authorise a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of any person any permit or licence when the renewal or grant might in accordance with the other provisions of the law reasonably be expected in the ordinary course of events, or prevent any person from transferring together with his business any transferable licence to operate that business ; or

(*c*) where no permit or licence was previously required for the operation or the trade or business, authorise a refusal to grant a permit or licence to any person for the operation of any trade or business which immediately before the coming into force of the law he had been *bona fide* carrying on, or authorise a refusal subsequently to renew to any such person any permit or licence, or a refusal to grant to the heirs, successors or assigns of any such person any such permit or licence when the renewal or grant might in accordance with the other provisions of that law reasonably be expected in the ordinary course of events.

(9) Nothing in this Article shall empower the Legislature to restrict any trade or business solely to Natives.

(10) In this Article, " Native " means a person who is a citizen, is the child or grandchild of a person indigenous to the State, and was born (whether on or after Malaysia Day or not) either in the State or to a father domiciled in the State at the time of the birth.

42. The Yang di-Pertua Negara shall keep and use the Public Seal of the State for all things that shall pass that Seal ; and, until a Seal shall be provided for the State, a stamp bearing the inscription " State of Sabah: Public Seal of the State " may be used as the Public Seal of the State. The Public Seal.

43. (1) Subject to the following provisions of this Article the provisions of this Constitution may be amended by an Enactment passed by the Legislature but may not be amended by any other means. Amendment of Constitution.

(2) Subject to clause (3), a Bill for making an amendment to this Constitution shall not be passed by the Legislative Assembly unless it has been supported on the second or third readings by the votes of not less than two-thirds of the total number of members thereof.

(3) Clause (2) shall not apply to a Bill for making—

(*a*) any amendment consequential on a law prescribing the number of elected members of the Legislative Assembly ; or

(*b*) any amendment for the purpose of bringing this Constitution into accord with any of the provisions of the Eighth Schedule to the Federal Constitution as for the time being in force.

(4) In this article " amendment " includes addition and repeal.

Authorised reprints of Constitution.

44. The Legislative Assembly may from time to time by resolution authorise the Government Printer to print copies of this Constitution including all amendments in force at the date of such authorisation; and any such copy so printed be deemed for all purposes to be a true and correct copy.

Re-appointment and re-election.

45. Where any person has vacated any office established by this Constitution he may, if qualified, again be appointed or elected to that office in accordance with the provisions of this Constitution.

Interpretation.

46. (1) In this Constitution, unless the context otherwise requires—

" the Cabinet " means the State Cabinet;

" citizen " means a citizen of the Federation;

" the Conference of Rulers " means the Conference of Rulers constituted by the Federal Constitution;

" the Commission " means the Public Service Commission of the State;

" existing law " means any law having effect as part of the law of the Colony of North Borneo or any part thereof immediately before the commencement of this Constitution;

" the Federal Constitution " means the Constitution of the Federation and includes the Malaysia Act, 1963;

" Federal law " means—

(*a*) any existing law continuing to have effect as part of the law of the State or any part thereof after the commencement of this Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a Federal law; and

(*b*) any Act of Parliament, or other law of the Federation relating to matters about which Parliament has power to make laws, which extends to the State;

" the Federation " means the Federation to be known, on and after Malaysia Day, by the name Malaysia;

" the Gazette " means the official Gazette of the State;

" the High Court " means the High Court in Borneo constituted by the Federal Constitution;

" the Legislature " means the Legislature of the State;

" Malaysia Day " means 31st August, 1963;

" office of profit " has the same meaning as in the Federal Constitution;

" Parliament " means the Parliament of the Federation;

" public officer " means a person holding or acting in any office of emolument in the public service;

" the public service " means, subject to the provisions of clause (2), the public service of the State;

" session " means, in relation to the Legislative Assembly, the sittings of the Assembly commencing when it first meets after its prorogation or dissolution and terminating when it is prorogued or is dissolved without having been prorogued ;

" sitting " means, in relation to the Legislative Assembly, a period during which the Assembly is sitting continuously without adjournment, and includes any period during which the Assembly is in committee ;

" the State " means the State of Sabah ;

" State law " means—

(*a*) any existing law continuing to have effect as part of the law of the State or any part thereof after the commencement of this Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a State law ; and

(*b*) any law made by the Legislature ;

" the Yang di-Pertuan Agong " means the Yang di-Pertuan Agong of the Federation.

(2) In this Constitution references to an office in the public service shall not be construed as including references to the office of—

(*a*) Yang di-Pertua Negara, Chief Minister or other Minister or member of the Executive Council Speaker or Member of the Legislative Assembly, a member of the Commission, a member of the Pardons Board constituted for the State under the Federal Constitution ; or

(*b*) save in so far as the legislature may by law prescribe, a member of any council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law.

(3) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the terms designating his office shall be construed as including a reference to any person for the time being acting in that office.

(4) Unless the context otherwise requires, any reference in this Constitution to a specified Part or Article or to the Schedule is a reference to that Part or Article of, or to the Schedule to, this Constitution and any reference to a clause or paragraph is a reference to that clause of the Article or paragraph of the clause in which the reference occurs.

(5) The Interpretation Ordinance, as in force at the commencement of this Constitution, shall apply for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to a written law within the meaning of that Ordinance.

47. Subject to the provisions of Part VI, this Constitution shall come into operation immediately before Malaysia Day. Commencement.

(6) An order made under clause (3) shall be laid before the Legislative Assembly as soon as may be on or after Malaysia Day and an order made under clause (4) shall be so laid as soon as may be after it is made.

(7) In clauses (3) and (4) "modification" includes amendment, adaptation and repeal.

N° 10760

49. (1) Subject to the provisions of this Article, all property and assets which immediately before the commencement of this Constitution were vested in Her Majesty for the purposes of the colony of North Borneo shall on the commencement of this Constitution vest in the State. Succession to property.

(2) Any land in the State which immediately before the commencement of this Constitution was vested in Her Majesty shall on the commencement of this Constitution vest in the State.

(3) Any property which was immediately before the commencement of this Constitution liable to escheat to Her Majesty shall on the commencement of this Constitution be liable to escheat to the State.

50. (1) All rights, liabilities and obligations of Her Majesty in respect of the government of the colony of North Borneo shall on the commencement of this Constitution become rights, liabilities and obligations of the State. Rights, liabilities and obligations.

(2) In this Article rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights to which Article 49 applies.

51. The first Yang di-Pertua Negara shall be a person nominated before Malaysia Day by Her Majesty and the Yang di-Pertuan Agong, and appointed by the Yang di-Pertuan Agong; and the appointment shall be for a term of two years beginning with Malaysia Day. First Yang di-Pertua Negara.

52. (1) Subject to the provisions of this Article, the Legislative Council established by the North Borneo (Legislative Council) Orders in Council 1950 to 1961 shall remain in being on and after Malaysia Day and shall, unless sooner dissolved by the Yang di-Pertua Negara, stand dissolved on 1st June, 1964. Transitional provisions relating to the Legislature.

(2) The Legislative Council continued in being by this Article shall be known as the Legislative Council of the State of Sabah, and until its dissolution the Legislative Assembly provided for by Article 14 shall not be established and, subject to the provisions of this Article, references in the other provisions of this Constitution to the Legislative Assembly shall, so far as the composition of the Legislative Council so admits, be construed as references to the Legislative Council.

(3) In place of the Governor as President of the Legislative Council there shall be a Speaker of the Legislative Council appointed in accordance with Article 15.

(4) A person who is a Temporary Member of the Legislative Council immediately before the commencement of this Constitution shall vacate his seat in the Council on its commencement.

(5) Where a vacancy occurs among the Official or Nominated Members of the Legislative Council the Yang di-Pertua Negara after consultation with the Chief Minister may appoint a person to fill the vacancy.

(6) A person who is an Official or Nominated Member of the Legislative Council immediately before the commencement of this Constitution shall remain a member of the Council irrespective of whether he is a citizen of Malaysia and consequently, while he is such a member by virtue of this clause, the provision of Article 16 that only citizens of Malaysia shall be qualified for membership of the Legislative Assembly shall not apply in relation to such a member of the Legislative Council.

(7) Notwithstanding the provisions of clause (3) of Article 17 (which, among other things, exempts from the operation of paragraph (*g*) of clause (1) of that Article anything done before he becomes a citizen of Malaysia) if, while he is not a citizen of Malaysia, an Official or Nominated Member of the Legislative Council does any of the things referred to in the said paragraph (*g*) he shall vacate his seat in the Council.

(8) A person is disqualified for being appointed as an Official Member of the Legislative Council if he does not hold an office in the public service and paragraph (*c*) of clause (1) of Article 17 shall not apply to the appointment of a person as such a Member, but notwithstanding clause (2) of that Article, the said paragraph (*c*) shall apply to the appointment of a person as a Nominated Member of the Legislative Council.

(9) Subject to clause (8) the provisions of this Constitution shall apply in relation to Official Members of the Legislative Council as they apply in relation to Nominated Members of the Council.

(10) The Standing Orders of the Legislative Council as in force immediately before the commencement of this Constitution shall, until they are replaced by Standing Orders made on or after Malaysia Day by the Legislative Council or the Legislative Assembly be the Standing Orders of the Legislative Council and the Legislative Assembly respectively but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of this Constitution.

Transitional financial provisions.

53. (1) Part III, except Article 28, shall not come into operation until 1st January 1964.

(2) Until the coming into operation of Part III, any sums which under this Constitution (including Part III) are a charge on the Consolidated Fund shall be a charge on the revenues and other funds of the State and payment thereof shall be made by virtue of this clause without further authority of any law.

(3) Nothing in clause (1) shall prevent the making of any provisions or doing of any other thing before 1st January 1964 for the purposes of Part III in respect of the financial year beginning on that date.

Transitional provisions relating to Public Service Commission.

54. (1) Any person who, immediately before the commencement of this Constitution, holds office as Chairman, Deputy Chairman or any other member of the Public Service Commission established by the North Borneo (Public Service Commission) Order in Council, 1963, shall, as from the commencement of this Constitution, hold the

like office as a member of the Commission established by this Constitution as if he had been appointed thereto under Article 36 for a period of two years from the commencement of this Constitution.

(2) Any regulation made by the Governor under the North Borneo (Public Service Commission) Order in Council, 1963, and in force immediately before the commencement of this Constitution shall—

(*a*) to the extent that they make provision in relation to the Commission established by the North Borneo (Public Service Commission) Order in Council, 1963, or the public service of the colony of North Borneo for matters for which, in relation to the Commission established by the Constitution or the public service of the State, provision may be made under clause (6) of Article 37, Article 38 or Article 40, have effect as from the commencement of this Constitution as if they were regulations or rules made under that clause or Article 38 or Article 40, as the case may be and

(*b*) subject to paragraph (*a*), shall be treated as an existing law for the purposes of Article 48.

55. (1) Subject to the provisions of the Federal Constitution and this Constitution, any person who immediately before the commencement of this Constitution is in the service of the Crown in respect of the government of the colony of North Borneo shall— Existing Officers.

(*a*) on the commencement of this Constitution cease to be in such service and become a person in the service of the State of Sabah;

(*b*) so long as he continues in such service, be entitled to terms and conditions of service not less favourable than those applicable to him immediately before the commencement of this Constitution;

(*c*) be deemed to have been appointed on the commencement of this Constititution to hold or to act in any office in the service of the State corresponding to that which he holds or is acting in immediately before the commencement of this Constitution and to have taken any oath in connection therewith required by law.

(2) For the purposes of clause (1)—

(*a*) any terms or conditions of service for which, on or after Malaysia Day, a person opts shall be deemed to be not less favourable than those applicable to him immediately before the commencement of this Constitution;

(*b*) the offices of State Secretary, State Attorney-General and State Financial Secretary shall be regarded as corresponding respectively to the offices of Chief Secretary, Attorney-General and Financial Secretary of the colony of North Borneo; and

(*c*) the Yang di-Pertua Negara may by order declare that any other office specified in such order shall be regarded as corresponding to another office so specified.

(3) Clause (1) does not apply to the Governor of the colony of North Borneo.

Secondment of members of the public service to Federal service.

56. (1) All persons who on the commencement of this Constitution are members of the police force in the State (and are not on leave pending retirement) shall on Malaysia Day be seconded to the police force of the Federation.

(2) Where on Malaysia Day any post in the judicial and legal branch of the public service becomes a post in the judicial and legal service of the Federation any person serving in that post on the commencement of this Constitution shall on Malaysia Day be seconded to the judicial and legal service of the Federation.

(3) Subject to Clause (4), where on Malaysia Day or any day thereafter any post in the public service becomes a post in the general public service of the Federation any person serving in that post immediately before that day shall on that day be seconded to the general public service of the Federation.

(4) Clause (3) shall not apply to persons in such grades of service as the Yang di-Pertua Negara may, with the consent of the Yang di-Pertuan Agong, direct.

(5) The power conferred on the Yang di-Pertua Negara by clause (4) may be exercised by the Governor of the colony of North Borneo at any time after the publication of this Constitution in the Gazette.

Compulsory retirement to facilitate appointment of local candidates.

57. (1) If the Chief Minister so requests, the Commission shall consider whether there are more local candidates suitably qualified for appointment to, or promotion in, any branch of the public service specified by the Chief Minister than there are vacancies in that branch that could appropriately be filled by such local candidates; the Commission, if satisfied that such is the case, shall, if so requested by the Chief Minister, select officers in that branch to whom this Article applies and whose retirement would in the opinion of the Commission cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the Chief Minister of the number of officers so selected; and if the Chief Minister specified a number of officers to be called upon to retire (not exceeding the number of officers so selected) the Commission shall nominate that number of officers from among the officers so selected and by notice in writing require them to retire from the public service; and any officer who is so required to retire shall retire accordingly.

(2) An officer who has been given notice by or on behalf of the Government of the State or of the colony of North Borneo that he will continue to be employed in the public service for a minimum period specified in the notice shall not be required to retire under clause (1) before the expiry of that period.

(3) This Article applies to—

(*a*) any entitled officer as defined in the Schedule to the North Borneo (Compensation and Retiring Benefits) Order in Council, 1963 ; and

(*b*) any officer on probation who, if he had been confirmed in his appointment, would have been such an entitled officer.

58. (1) There shall be a Police Board for the State which shall consist of— Police Board.

(*a*) the Chairman of the Commission, who shall be the Chairman of the Board ;

(*b*) the State Attorney-General ;

(*c*) the senior officer of police in the State ; and

(*d*) a person designated by the Director of Police Affairs.

(2) Notwithstanding clause (1) of Article 37, it shall be the duty of the Police Board to exercise disciplinary control over members of the public service who are seconded to the police force.

(3) The Police Board may, by directions in writing and subject to such conditions as it thinks fit, delegate to any police officer, or to any board of police officers appointed by it, any of its functions under clause (2) in respect of any rank in the police force, and that officer or board shall exercise those functions under the direction and control of the Police Board.

(4) The functions conferred by this Article shall be exercised in accordance with the provisions of any Federal law prescribing offences against police force discipline and the punishment that may be imposed for any such offence.

(5) At any meeting of the Police Board two members including the Chairman or, if the Chairman is not present, three members shall form a quorum ; and if on any question the votes of the members present are equally divided the Chairman may exercise a casting vote.

(6) Subject to clause (5), the Police Board may act notwithstanding any vacancy in its membership, and any proceeding of the Board shall be valid notwithstanding that some person not entitled to do so took part therein.

(7) Subject to the provisions of this Article, the Police Board may regulate its procedure and make rules for that purpose.

59. When a person who is not a citizen is required by this Constitution to take an oath on becoming an *ex officio* member of the Cabinet, the Speaker or an *ex officio* member of the Legislative Assembly, an Official or Nominated Member of the Legislative Council or the Chairman of the Commission, the words " and allegiance " shall be omitted from the oath. Modification of form of oath in certain cases.

THE SCHEDULE

Forms of Oaths and Affirmations

(Articles 4, 8, 22 and 36 (10))

Part I

Oath of Office of Yang di-Pertua Negara

I, , having been appointed as (or to exercise the functions of) Yang di-Pertua Negara of the State of Sabah, do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Sabah and to the Federation of Malaysia and that I will preserve, protect and defend the Constitution of the State of Sabah.

Part II

Oath of Member of State Cabinet

I, , having been appointed to the office of (or having become an *ex officio* member of the Cabinet) do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, that I will bear true faith and allegiance to the State of Sabah and to the Federation of Malaysia, that I will preserve, protect and defend the Constitution of the State of Sabah, and that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as a member of the Cabinet of the State of Sabah except as may be required for the due discharge of my duties as such or may be specially permitted by the Yang di-Pertua Negara.

Part III

Oath of Member of the Legislative Assembly

I, , having been elected (or appointed) as a member (or having become an *ex officio* member) of the Legislative Assembly of the State of Sabah, do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Sabah and to the Federation of Malaysia and that I will preserve, protect and defend the Constitution of the State of Sabah.

Part IV

Oath of Member of Public Service Commission

I, , having been appointed to the office of a member of the Public Service Commission of the State of Sabah do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, and that I will bear true faith and allegiance to the State of Sabah and to the Federation of Malaysia and that I will preserve, protect and defend the Constitution of the State of Sabah.

ANNEX C

THE CONSTITUTION OF THE STATE OF SARAWAK

TABLE OF CONTENTS

21. Summoning, prorogation and dissolution of Council Negri.
22. Oath of Speaker and members.
23. Address by Governor.
24. Procedure of Council Negri.
25. Privileges of the Council Negri and members.
26. Exercise of Legislative power.
27. Supremacy of Constitution.

PART III

FINANCIAL PROVISIONS

28. No taxation unless authorized by law.
29. Consolidated Fund.
30. Annual financial statement.
31. Supply Bills.
32. Supplementary and excess expenditure.
33. Withdrawals from Consolidated Fund.
34. Financial Year.

PART IV

THE PUBLIC SERVICE

35. The Public Service Commission.
36. Functions of Commission.
37. Procedure of Commission.
38. Impartial treatment of State employees.

PART V

GENERAL PROVISIONS

39. Reservation of quotas in respect of the public service and educational facilities for Natives.
40. The Public Seal.
41. Amendment of Constitution.
42. Authorized reprints of Constitution.
43. Re-appointment and re-election.
44. Interpretation.
45. Commencement.

PART VI

TRANSITIONAL PROVISIONS

THE SCHEDULE

FORMS OF OATHS AND AFFIRMATIONS

PART I

PART II

PART III

PART IV

THE CONSTITUTION OF THE STATE OF SARAWAK

PART I

THE STATE GOVERNMENT

Chapter 1—The Governor

Governor of the State.

1. (1) There shall be a Governor of the State, who shall be appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the Chief Minister.

(2) The Governor shall be appointed for a term of four years but may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong, and may be removed from office by the Yang di-Pertuan Agong in pursuance of an address by the Council Negri supported by the votes of not less than two-thirds of the total number of the members thereof.

(3) The Yang di-Pertuan Agong, acting in his discretion but after consultation with the Chief Minister, may appoint a person to exercise the functions of the Governor during any period during which the Governor is unable to do so himself owing to illness, absence or any other cause; but no person shall be so appointed unless he would be qualified to be appointed as Governor.

(4) A person appointed under clause (3) may take the place of the Governor as a member of the Conference of Rulers during any period during which, under that clause, he may exercise the functions of the Governor.

Qualifications and disabilities of Governor.

2. (1) A person who is not a citizen or is a citizen by naturalisation shall not be appointed as Governor.

(2) The Governor shall not hold any office of profit and shall not actively engage in any commercial enterprise.

Civil List of Governor.

3. The Legislature shall by law provide a Civil List of the Governor, which shall be a charge on and paid out of the Consolidated Fund and shall not be diminished during his continuance in office.

Oath of office of Governor.

4. The Governor, and any person appointed under Clause (3) of Article 1, shall before exercising his functions take and subscribe in the presence of the Chief Justice or of a Judge of the High Court an oath in the form set out in Part I of the Schedule.

Chapter 2—The Executive

Executive authority.

5. (1) The executive authority of the State shall be vested in the Governor but executive functions may by law be conferred on other persons.

The Supreme Council.

6. (1) There shall be a Supreme Council to advise the Governor in the exercise of his functions.

(2) The Supreme Council shall consist of—

(*a*) a Chief Minister and five other members appointed in accordance with clause (3); and

(*b*) three *ex officio* members, namely, the State Secretary, the State Attorney-General and the State Financial Secretary.

(3) The Governor shall appoint as Chief Minister a member of the Council Negri who in his judgment is likely to command the confidence of a majority of the members of the Council Negri and shall appoint the other members mentioned in paragraph (*a*) of clause (2) in accordance with the advice of the Chief Minister from among the members of the Council Negri:

Provided that if an appointment is made while the Council Negri is dissolved a person who was a member of the last Council may be appointed but shall not continue to hold office after the first sitting of the next Council Negri unless he is a member thereof.

(4) Notwithstanding anything in this Article, a person who is a citizen by naturalization shall not be appointed Chief Minister.

(5) The Chief Minister shall not hold any office of profit and shall not actively engage in any commercial enterprise.

(6) The Supreme Council shall be collectively responsible to the Council Negri.

Tenure of office of members of Supreme Council.

7. (1) If the Chief Minister ceases to command the confidence of a majority of the members of the Council Negri, then, unless at his request the Governor dissolves the Council Negri, the Chief Minister shall tender the resignation of the members of the Supreme Council other than the *ex officio* members.

(2) A member of the Supreme Council other than an *ex officio* member may at any time resign his office by writing under his hand addressed to the Governor, and a member of the Supreme Council other than the Chief Minister or an *ex officio* member shall also vacate his office if his appointment thereto is revoked by the Governor acting in accordance with the advice of the Chief Minister.

(3) Subject to clauses (1) and (2), a member of the Supreme Council other than the Chief Minister or an *ex officio* member shall hold office at the Governor's pleasure.

Oaths of member of Supreme Council.

8. Before a member of the Supreme Council exercises the functions of his office he shall take and subscribe in the presence of the Governor the oath set out in Part II of the Schedule.

Allocation of portfolio and provision regarding private business interests.

9. (1) The Governor may, in accordance with the advice of the Chief Minister, assign to a member of the Supreme Council responsibility for any business of the government of the State including the administration of any department of government, and any member of the Supreme Council other than an *ex officio* member to whom such responsibility is assigned shall be styled " Minister ".

(2) A member of the Supreme Council shall not engage in any trade, business or profession connected with any subject or department of

government for which he is responsible and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Supreme Council relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

Governor to act on advice.

10. (1) In the exercise of his functions under this Constitution or any other law, or as a member of the Conference of Rulers, the Governor shall act in accordance with the advice of the Supreme Council or of a member thereof acting under the general authority of the Council, except as otherwise provided by the Federal Constitution or this Constitution; but shall be entitled, at his request, to any information concerning the government of the State which is available to the Supreme Council.

(2) The Governor may act in his discretion in the performance of the following functions—

(*a*) the appointment of a Chief Minister;

(*b*) the withholding of consent to a request for the dissolution of the Council Negri.

(3) The Legislature may by law make provision for requiring the Governor to act after consultation with, or on the recommendation of, any person or body of persons other than the Supreme Council in the exercise of any of his functions except—

(*a*) functions, exercisable in his discretion; and

(*b*) functions with respect to the exercise of which provision is made in the Federal Constitution or any other Article of this Constitution.

Appointment of State Secretary, State Attorney-General and State Financial Secretary.

11. The offices of State Secretary, State Attorney-General and State Financial Secretary are hereby constituted, and appointments thereto shall be made by the Governor acting in accordance with the advice of the Chief Minister, who shall select for appointment a person whose name is included in a list submitted for the purpose by the Commission and shall, before tendering his advice, consult the Government of the Federation.

Chapter 3—Capacity as respects property contracts and suits

Capacity of State as respects property, contracts and suits.

12. (1) The State shall have power to acquire, hold and dispose of property of any kind and to make contracts.

(2) The State may sue and be sued.

PART II

THE LEGISLATURE

Constitution of Legislature.

13. The Legislature of the State shall consist of the Governor and one House, to be known as the Council Negri.

Composition of Council Negri.

14. (1) The Council Negri shall consist of—

(*a*) the Speaker;

(*b*) three *ex-officio* members, namely, the State Secretary, the State Attorney-General and the State Financial Secretary;

(*c*) such number of elected members as the Legislature may by law prescribe, elected in such manner as may be provided by Federal or State law ;

(*d*) such number of other members (hereinafter referred to as " nominated members "), not being more than three, as the Governor, acting in his discretion after consultation with the Chief Minister, may appoint ; and

(*e*) subject to clause (4) of Article 18, one standing member, namely the person who, immediately before the commencement of this Constitution, is the standing member of the Council Negri established by the existing Orders.

(2) Until the Legislature otherwise prescribes the number of elected members shall be thirty-six.

15. (1) The Speaker shall be appointed by the Governor acting in his discretion after consultation with the Chief Minister from among persons qualified to be appointed as nominated members of the Council Negri under Article 16. The Speaker.

(2) The Speaker shall hold office for such period as may be specified in the instrument by which he is appointed, but shall vacate his office—

(*a*) if he resigns it by writing under his hand addressed to the Governor ; or

(*b*) if he becomes disqualified for appointment as a nominated member of the Council Negri.

(3) Any question whether a person is qualified to be appointed as Speaker shall be determined by the Governor, acting in his discretion, whose decision shall be final.

(4) During any absence of the Speaker from a sitting of the Council or any vacancy in the office of Speaker such member of the Council as may be determined by the Standing Orders of the Council shall act as Speaker.

(5) The Legislature shall by law provide for the remuneration of the Speaker, and the remuneration so provided shall be a charge on and paid out of the Consolidated Fund, and shall not be diminished as respects any holder of the office of Speaker after his appointment.

16. Every citizen of or over the age of twenty-one years who is resident in the State is qualified to be elected as an elected member or appointed as a nominated member of the Council Negri, unless he is disqualified for being such a member by the Federal Constitution or this Constitution or by any such law as is mentioned in Article 17. Qualifications of members.

17. (1) Subject to the provisions of this Article, a person is disqualified for being elected as an elected member or appointed as a nominated member of the Council Negri if— Disqualifications for membership.

(*a*) he is and has been found or declared to be of unsound mind ;

(*b*) he is an undischarged bankrupt ;

(*c*) he holds an office of profit other than that of Native Chief ;

(*d*) having been nominated for election to either House of Parliament or to the Council Negri, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required ;

(*e*) he has been convicted of an offence by a court of law in any part of the Federation and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand dollars and has not received a free pardon in respect thereof ;

(*f*) he is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Council Negri by reason of having been convicted of such an offence, or having in proceedings relating to such an election been proved guilty of an act constituting such an offence ; or

(*g*) he has voluntarily acquired citizenship of, or exercised rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country.

(2) Paragraph (*c*) of clause (1) shall not apply to the appointment of a person as a nominated member.

(3) The disqualification of a person under paragraph (*d*) or paragraph (*e*) of clause (1) may be removed by the Governor and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in paragraph (*d*) of that clause was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in paragraph (*e*) of that clause was released from custody, or the date on which the fine mentioned in that paragraph was imposed ; and a person shall not be disqualified under paragraph (*g*) of clause (1) by reason only of anything done by him before he became a citizen.

(4) In paragraph (*g*) of clause (1) " foreign country " has the same meaning as in the Federal Constitution.

Tenure of seats of members.

18. (1) Every elected or nominated member of the Council Negri shall vacate his seat in the Council on a dissolution of the Council.

(2) An elected or nominated member shall also vacate his seat in the Council if—

(*a*) he ceases to be qualified for election or appointment as such a member of the Council ;

(*b*) he resigns his seat by writing under his hand addressed to the Speaker ; or

(*c*) he is absent without the leave of the Speaker from every sitting of the Council for three consecutive meetings.

(3) For the purposes of paragraph (*c*) of clause (2), " meeting " means any sitting or sittings of the Council commencing when the Council first meets after being summoned at any time and terminating when the Council is adjourned *sine die* or at the conclusion of a Session.

(4) The standing member of the Council Negri shall vacate his seat in the Council if he resigns it by writing under his hand addressed to the Speaker or if he ceases to be President of the Majlis Islam or to hold an office of emolument in the public service ; and upon the seat of the standing member becoming vacant paragraph (e) of clause (1) of Article 14 shall cease to have effect.

19. If any question arises whether the Speaker or a member of the Council Negri has ceased to be qualified for appointment or election as such, the decision of the Council shall be taken and shall be final: Decision as to disqualification.

Provided that this Article shall not be taken to prevent the practice of the Council postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

20. Any person who sits or votes in the Council Negri, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty not exceeding two hundred dollars for each day on which he so sits or votes, which penalty shall be recoverable as a civil debt in the High Court at the suit of the State Attorney-General. Penalty for unqualified person sitting or voting in the Council Negri.

21 (1) The Governor may from time to time summon the Council Negri, and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first sitting in the next session. Summoning prorogation and dissolution of Council Negri.

(2) The Governor may prorogue or dissolve the Council Negri.

(3) The Council Negri shall, unless sooner dissolved, continue for five years from the date of its first sitting and shall then stand dissolved.

(4) Whenever the Council Negri is dissolved, a general election shall be held within sixty days from the date of the dissolution and the new Council Negri shall be summoned to meet on a date not later than ninety days from that date.

(5) Whenever the seat of an elected member has become vacant for any reason other than a dissolution, the vacancy shall, within sixty days from the date on which it is established that there is a vacancy, be filled by election in accordance with the provisions of this Constitution.

22. The Speaker shall before exercising the functions of his office take and subscribe before the Governor the oath set out in Part III of the Schedule and every member of the Council Negri shall before taking his seat take and subscribe the said oath before the Speaker. Oath of Speaker and members.

23. The Governor may address the Council Negri and may send messages thereto. Address by Governor.

24. (1) Subject to the provisions of this Constitution, the Council Negri shall regulate its own procedure and may make Standing Orders for that purpose. Procedure of Council Negri.

(2) The Council Negri shall not be disqualified for the transaction of business by reason of any vacancy in its membership, and the

presence or participation of any person not entitled to be present or to participate shall not invalidate any proceedings.

(3) Subject to clauses (5) and (6) and to clause (2) of Article 41, the Council Negri shall, if not unanimous, take its decision by a simple majority of members voting; and the Speaker or member presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(4) Members absent from the Council Negri shall not be allowed to vote.

(5) The Standing Orders of the Council Negri may provide, as respects any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes.

(6) No Bill making provision for controlling or restricting the propagation of any religious doctrine or belief among persons professing the Muslim religion shall be passed by the Council Negri unless it has been supported on the second and third readings by the votes of not less than two-thirds of the total number of the members thereof.

(7) No Bill or amendment involving expenditure from the Consolidated Fund may be introduced or moved in the Council Negri except by a member of the Supreme Council.

(8) For a period of ten years after Malaysia Day, and thereafter until the Legislature by law otherwise provides, all proceedings in the Council may be in the English language and, subject to the Standing Orders of the Council Negri, members may use any Native language in addressing the Council.

(9) If objection is taken by any member present that there are present (besides the Speaker or member presiding) fewer than one-third of the total number of members and after such interval as may be prescribed in the Standing Orders of the Council, the person presiding ascertains that the number of members present is still less than one-third of the total number of members, he shall thereupon adjourn the Council.

Privileges of the Council Negri and members.

25. Subject to Article 72 of the Federal Constitution, it shall be lawful for the Legislature by law to determine and regulate the privileges, immunities or powers of the Council Negri; but no such privileges, immunities or powers shall exceed those of the Federal House of Representatives.

Exercise of legislative power.

26. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Council Negri and assented to by the Governor.

(2) All laws enacted by the Legislature shall be styled Ordinances and the words of enactment shall be " Enacted by the Legislature of Sarawak ".

(3) A Bill shall become law on being assented to by the Governor, but no law shall come into force until it has been published in the Gazette, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect.

Supremacy of Constitution.

27. Any Ordinance passed on or after Malaysia Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.

PART III

FINANCIAL PROVISIONS

No taxation unless authorized by law.

28. No tax or rate shall be levied by or for the purposes of the State except by or under the authority of law.

Consolidated Fund.

29. (1) All revenues and moneys howsoever raised or received by the State from whatsoever source shall, subject to this Constitution and any law, be paid into and form one fund to be known as " the Consolidated Fund ".

(2) There shall be charged on and paid out of the Consolidated Fund, in addition to any grant, remuneration or other moneys so charged by any other provision of this Consititution or by State law—

(*a*) all debt charges for which the State is liable ; and

(*b*) any moneys required to satisfy any judgment, decision or award against the State by any court or tribunal.

(3) For the purposes of this Article, " debt charges " include interest, sinking fund charges, repayment or amortisation of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Annual financial statement.

30. (1) The Governor shall, in respect of every financial year, cause to be laid before the Council Negri a statement of the estimated receipts and expenditure of the State for that year, and, unless the Legislature in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year.

(2) The estimates of expenditure shall show separately—

(*a*) the total sums required to meet expenditure charged on the Consolidated Fund ; and

(*b*) subject to clause (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.

(3) The sums referred to in paragraph (*b*) of clause (2) do not include—

(*a*) sums representing the proceeds of any loan raised by the State for specific purposes and appropriated for those purposes by the law authorizing the raising of the loan ;

(*b*) sums representing any money or interest on money received by the State subject to a trust and to be applied in accordance with the terms of the trust ; and

(*c*) sums representing any money held by the State which has been received or appropriated for the purpose of any trust fund established by or in accordance with State law.

(4) The statement of estimated receipts and expenditure shall also show, so far as is practicable, the assets and liabilities of the State at the end of the last completed financial year, the manner in which those assets are invested or held and the general heads in respect of which those liabilities are outstanding.

Supply Bills

31. The heads of expenditure to be met from the Consolidated Fund in respect of any financial year but not charged thereon, other than expenditure to be met by such sums as are mentioned in clause (3) of Article 30, shall be included in a Bill, to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

Supplementary and excess expenditure.

32. If in respect of any financial year it is found—

(*a*) that the amount appropriated by the Supply Ordinance for any purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Ordinance ;

(*b*) that any moneys have been expended for any purpose in excess of the amount, if any, appropriated for that purpose by the Supply Ordinance,

a supplementary estimate showing the sums required or spent shall be laid before the Council Negri, and the heads of any such expenditure shall be included in a Supply Bill.

Withdrawals from Consolidated Fund.

33. (1) Subject to the following provisions of this Article, no moneys shall be withdrawn from the Consolidated Fund unless they are—

(*a*) charged on the Consolidated Fund ; or

(*b*) authorized to be issued by a Supply Ordinance.

(2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by Federal law.

(3) Clause (1) shall not apply to any such sums as are mentioned in clause (3) of Article 30.

(4) The Legislature may, in respect of any financial year, by law authorize, before the passing of the Supply Ordinance, expenditure for part of the year and the issue from the Consolidated Fund of any moneys required to meet that expenditure.

Financial year.

34. For the purposes of this Part " financial year " means the period of twelve months ending on the thirty-first day of December in any year or such other day as the Legislature may by law prescribe.

Part IV

THE PUBLIC SERVICE

The Public Service Commission.

35. (1) There shall be a Public Service Commission for the State which shall consist of a Chairman, a Deputy Chairman and not less than two or more than four other members, each of whom shall be appointed by the Governor after consultation with the Chief Minister.

(2) A person shall not be appointed to be a member of the Commission if he is, and shall cease to be such a member if he becomes—

(*a*) a public officer:

Provided that a public officer may be appointed to be a member of the Commission if he is on leave prior to retirement ;

(*b*) a member of either House of Parliament or of the Council Negri ;

(*c*) a member, officer or employee of any local authority ;

(*d*) a member of any trade union, or of any body or association affiliated to a trade union ; or

(*e*) the holder of any office in any political association.

(3) Subject to clauses (2) and (4), every member of the Commission shall, unless he earlier resigns his office, by writing under his hand addressed to the Governor hold office for a period of five years from the date of his appointment or for such shorter period as may be specified in the instrument by which he is appointed.

(4) If the Chief Minister, or the Chairman of the Commission after consulting with the Chief Minister, represents to the Governor that a member of the Commission ought to be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, the Governor shall appoint a tribunal in accordance with clause (5) and shall refer the representation to it ; and, if the tribunal so recommends, the Governor shall remove that member from office by writing under his hand.

(5) A tribunal appointed under clause (4) shall consist of not less than three persons who hold or have held office as Judge of the Federal Court or of any High Court in the Federation or, if it appears to the Governor expedient to make such appointment, persons who hold or have held equivalent office in any other part of the Commonwealth.

(6) A tribunal appointed under clause (4) shall regulate its own procedure and may make rules for that purpose.

(7) Where a representation has been made to the Governor under Clause (4), he may on the recommendation of the Chief Minister suspend the member concerned from the exercise of his functions pending the report of the tribunal on that representation.

(8) Where, during any period, a member of the Commission has been granted leave of absence by the Governor or is unable, owing to his absence from the State, illness or any other cause, to discharge his functions as such a member the Governor may appoint as a temporary member of the Commission to exercise his functions during that period, any person who would be qualified to be appointed in his place ; and the appointment of any such temporary member shall be made in the same manner as that of any other member of the Commission.

(9) Before exercising the functions of his office every member of the Commission shall take and subscribe before the Chief Justice or some other Judge of the High Court the oath in the form set out in Part IV of the Schedule.

(10) Members of the Commission shall be paid such remuneration as the Legislature may by law provide, and such remuneration shall be a charge on and paid out of the Consolidated Fund.

(11) Subject to the provisions of this Constitution, the terms of service of the members of the Commission—

(*a*) shall be such as the Legislature may by law prescribe ; and

(*b*) in so far as they are not so prescribed, shall be determined by the Governor.

(12) The remuneration and other terms of service of any member of the Commission shall not be altered to his disadvantage after his appointment.

(13) For the purposes of clause (12), in so far as the terms of service of a member of the Commission depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any others for which he might have opted.

Functions of Commission.

36. (1) Subject to the provisions of the Federal Constitution and of this Constitution, it shall be the duty of the Commission to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the public service.

(2) The Legislature may by law provide for the exercise of other functions by the Commission.

(3) In clause (1), " member of the public service " does not include any person whose remuneration is calculated at a daily rate, and " transfer " does not include transfer without a change of rank within a department of Government.

(4) The Governor may designate as special posts any posts in the public service held by the head or deputy head of a department or by an officer who in his opinion is of similar status, and an appointment to any post so designated shall not be made in accordance with clause (1) but shall be made by the Governor on the recommendation of the Commission.

(5) Before acting, in accordance with clause (4), on the recommendation of the Commission, the Governor shall consider the advice of the Chief Minister and may once refer the recommendation back to the Commission in order that it may be reconsidered.

(6) The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate to any public officer, or to any board of public officers appointed by it, any of its functions under clause (1) in respect of any grade of members of the public service, and that officer or board shall exercise those functions under the direction and control of the Commission.

(7) In respect of members of the public service who are employed in posts ancillary to the police force, or in respect of any grade of members of the public service who are so employed, functions of the Commission may, under Clause (6), to be made exercisable by an officer or board of officers of the police force as if he or they were a public officer or board of public officers.

(8) The Commission shall make an annual report on the discharge of its functions to the Governor, who shall cause copies of the report to be laid before the Council Negri.

Procedure of Commission.

37. (1) At any meeting of the Commission three members, who shall include the Chairman or Deputy Chairman, shall form a quorum.

(2) Subject to clause (1), the Commission may act notwithstanding any vacancy in its membership, and any proceeding of the Commission shall be valid notwithstanding that some person not entitled to do so took part therein.

(3) The Commission may, subject to the provisions of this Constitution, regulate its procedure and make rules for that purpose, and, with the consent of the Governor, may, in connection with the discharge of its functions, confer powers and impose duties on any public officer or any authority of the Government of the State.

Impartial treatment of State employees.

38. All persons of whatever race in the same grade of the service of the State shall, subject to the terms and conditions of their employment, be treated impartially.

PART V

GENERAL PROVISIONS

Reservation of quotas in respect of the public service and educational facilities for Natives.

39. (1) It shall be the responsibility of the Governor to safeguard the special position of the Natives and the legitimate interests of other communities in accordance with the provisions of this Article.

(2) The Governor shall exercise his functions under this Constitution and under State law in such manner as may be necessary to safeguard the special position of the Natives and to ensure the reservation for Natives of such proportion as he may deem reasonable of offices in the public service and of scholarships, exhibitions and other similar educational or training privileges, or special facilities, given or accorded by or with the approval of the State Government.

(3) The Governor may, in order to ensure in accordance with clause (2) the reservation to Natives of offices in the public service and of scholarships, exhibitions and other educational or training privileges or special facilities, give such general directions as may be required for that purpose to the Commission, or to any authority charged with responsibility for the grant of such scholarships, exhibitions or other educational or training privileges or special facilities ; and the Commission or authority shall duly comply with the directions.

(4) In exercising his functions under this Constitution and under State law in accordance with clauses (1), (2) and (3), the Governor shall

not deprive any person of any office in the public service held by him or of the continuance of any scholarship, exhibition or other educational or training privileges or special facilities enjoyed by him.

(5) This Article does not derogate from the provisions of Article 38.

The Public Seal.

40. The Governor shall keep and use the Public Seal of Sarawak for all things that shall pass that Seal ; and, until a Seal shall be provided for the State, a stamp bearing the inscription " State of Sarawak: Public Seal of the State " may be used as the Public Seal of Sarawak.

Amendment of Constitution.

41. (1) Subject to the following provisions of this Article, the provisions of this Constitution may be amended by an Ordinance enacted by the Legislature but may not be amended by any other means.

(2) Subject to clause (3), a Bill for making an amendment to this Constitution shall not be passed by the Council Negri unless it has been supported on the second and third readings by the votes of not less than two-thirds of the total number of members thereof.

(3) Clause (2) shall not apply to a Bill for making—

(*a*) any amendment consequential on a law prescribing the number of elected members of the Council Negri ; or

(*b*) any amendment for the purpose of bringing this Constitution into accord with any of the provisions of the Eighth Schedule to the Federal Constitution as for the time being in force.

(4) In this Article " amendment " includes addition and repeal.

Authorized reprints of Constitution.

42. The Council Negri may from time to time by resolution authorize the Government Printer to print copies of this Constitution including all amendments in force at the date of such authorization ; and any such copy so printed shall be deemed for all purposes to be a true and correct copy.

Re-appointment and re-election.

43. Where any person has vacated any office established by this Constitution he may, if qualified, again be appointed or elected to that office, in accordance with the provisions of this Constitution.

Interpretation.

44. (1) In this Constitution, unless the context otherwise requires—

" citizen " means a citizen of the Federation ;

" the Conference of Rulers " means the Conference of Rulers constituted by the Federal Constitution ;

" the Commission " means the Public Service Commission of the State ;

" existing law " means any law having effect as part of the law of the Colony of Sarawak or any part thereof immediately before the commencement of this Constitution ;

" the existing Orders " means the Sarawak (Constitution) Orders in Council 1956 to 1963 ;

" the Federal Constitution " means the Constitution of the Federation and includes the Malaysia Act, 1963 ;

" Federal law " means—

(*a*) any existing law contining to have effect as part of the law of the State or any part thereof after the commencement of this Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a Federal law ; and

(*b*) any Act of Parliament, or other law of the Federation relating to matters about which Parliament has power to make laws, which extends to the State;

" the Federation " means the Federation to be known, on and after Malaysia Day, by the name Malaysia ;

" the Gazette " means the official Gazette of the State ;

" the Governor " means the Governor of the State ;

" the High Court " means the High Court in Borneo constituted by the Federal Constitution ;

" the Legislature " means the Legislature of the State ;

" Malaysia Day " means 31st August, 1963 ;

" Native " has the same meaning as it has in the Federal Constitution for the purposes of the application of Article 153 thereof to Natives of the State ;

" office of profit " has the same meaning as in the Federal Constitution ;

" Parliament " means the Parliament of the Federation ;

" public officer " means a person holding or acting in any office of emolument in the public service ;

" the public service " means, subject to the provisions of Clause (2), the public service of the State ;

" session " means, in relation to the Council Negri, the sittings of the Council commencing when it first meets after its prorogation or dissolution and terminating when it is prorogued or is dissolved without having been prorogued ;

" sitting " means, in relation to the Council Negri, a period during which the Council is sitting continuously without adjournment, and includes any period during which the Council is in committee ;

" the State " means the State of Sarawak ;

" State law " means—

(*a*) any existing law continuing to have effect as part of the law of the State or any part thereof after the commencement of this Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a State law ; and

(*b*) any law made by the Legislature ;

" the Yang di-Pertuan Agong " means the Yang di-Pertuan Agong of the Federation.

(2) In this Constitution references to an office in the public service shall not be construed as including references to the office of—

(*a*) Governor, Chief Minister or other Minister or member of the Supreme Council, Speaker or member of the Council Negri, a member of the Commission, a member of the Pardons Board constituted for the State under the Federal Constitution, the President of the Majlis Islam, the Mufti, or any Headman as defined in the Local Authority Ordinance; or

(*b*) save in so far as the Legislature may by law prescribe, a member of any council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law.

(3) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the terms designating his office shall be construed as including a reference to any person for the time being acting in that office.

(4) Unless the context otherwise requires, any reference in this Constitution to a specified Part or Article or to the Schedule is a reference to that Part or Article of, or to the Schedule to, this Constitution and any reference to a clause or paragraph is a reference to that clause of the Article or paragraph of the clause in which the reference occurs.

(5) The Interpretation Ordinance, as in force at the commencement of this Constitution, shall apply for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to a written law within the meaning of that Ordinance.

Commencement.

45. Subject to the provisions of Part VI, this Constitution shall come into operation immediately before Malaysia Day.

PART VI

TRANSITIONAL PROVISIONS

Existing laws.

46. (1) Subject to the provisions of this Article and to any provision made on or after Malaysia Day by or under Federal law or State law, all existing laws shall on and after the commencement of this Constitution continue to have effect but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of this Constitution.

(2) Subject as aforesaid and without prejudice to the generality of clause (1), references in any existing law to the Colony of Sarawak or any officer holding office under the Government of the Colony or to any authority or body constituted in or for the Colony shall be construed on and after the commencement of this Constitution as references to the State or to the corresponding officer, authority or body respectively.

(3) (*a*) The Governor of the Colony of Sarawak may by order made at any time before Malaysia Day make such modifications in any existing law as appear to him to be necessary or expedient in consequence of the promulgation of this Constitution or the passing of the Malaysia Act, 1963.

(*b*) This clause shall come into operation on the publication of this Constitution in the Gazette.

(*c*) An order made under this clause shall have effect from such date, not being later than the commencement of this Constitution, as may be specified therein.

(4) (*a*) The Governor may by order at any time after the commencement of this Constitution and before the end of August 1965 make such modifications in any existing law, to the extent that it is by virtue of the provisions of the Federal Constitution treated as a State law, as appear to him to be necessary or expedient in consequence of the promulgation of this Constitution or the passing of the Malaysia Act, 1963.

(*b*) An order made under this clause shall have effect from such date, not being earlier than the commencement of this Constitution, as may be specified therein.

(5) Any provision made by an order under this Article with respect to any law may be amended or repealed in like manner as that law.

(6) An order made under clause (3) shall be laid before the Council Negri as soon as may be on or after Malaysia Day and an order made under clause (4) shall be so laid as soon as may be after it is made.

(7) In clauses (3) and (4) " modification " includes amendment, adaptation and repeal.

47. (1) Subject to the provisions of this Article, all property and assets which immediately before the commencement of this Constitution were vested in Her Majesty for the purposes of the Colony of Sarawak shall on the commencement of this Constitution vest in the State. Succession to property.

(2) Any land in the State which immediately before the commencement of this Constitution was vested in Her Majesty shall on the commencement of this Constitution vest in the State.

(3) Any property which was immediately before the commencement of this Constitution liable to escheat to Her Majesty shall on the commencement of this Constitution be liable to escheat to the State.

48. (1) All rights, liabilities and obligations of Her Majesty in respect of the government of the colony of Sarawak shall on the commencement of this Constitution become rights, liabilities and obligations of the State. Rights, liabilities and obligations.

(2) In this Article rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights to which Article 47 applies.

49. The first Governor shall be a person nominated before Malaysia Day by Her Majesty and the Yang di-Pertuan Agong, and appointed by the Yang di-Pertuan Agong; and the appointment shall be for a term of two years beginning with Malaysia Day. First Governor.

Transitional provisions relating to Supreme Council.

50. The persons who, immediately before the commencement of this Constitution, hold the offices of Chief Minister and other members (not being the offices of *ex officio* members) of the Supreme Council established by the existing Orders shall, as from the commencement of this Constitution, be deemed to have been appointed to hold the like offices as members of the Supreme Council under Article 6.

Transitional provisions relating to the Legislature.

51. (1) Notwithstanding the provisions of Article 15, the person who, immediately before the commencement of this Constitution, holds office as Speaker of the existing Council Negri shall be the first Speaker of the new Council Negri, and shall hold office until 31st August, 1965 unless before that date he resigns his office by writing under his hand addressed to the Governor or becomes subject to any of the disqualifications for appointment as a nominated member of the new Council set out in Article 17.

(2) (*a*) Any person who, immediately before the commencement of this Constitution, is an elected or nominated member of the existing Council Negri and is not subject to any of the disqualifications set out in Article 17 for being elected as an elected member or, as the case may be, appointed as a nominated member of the new Council Negri shall, as from the commencement of this Constitution, be deemed to have been elected as an elected member or, as the case may be, appointed as a nominated member of the new Council Negri in accordance with the provisions of this Constitution and, subject to paragraphs (*b*) and (*c*), shall hold his seat in the new Council Negri in accordance with those provisions.

(*b*) Such a person as is referred to in paragraph (*a*) shall be a member of the new Council Negri by virtue of that paragraph irrespective of whether he is a citizen and consequently, while he is such a member by virtue of that paragraph, the provision of Article 16 that only citizens shall be qualified for membership of the Council Negri shall not apply in relation to him.

(*c*) Notwithstanding the provisions of clause (3) of Article 17 (which, among other things, exempts from the operation of paragraph (*g*) of clause (1) of that Article anything done by a person before he becomes a citizen), if, while he is a member of the new Council Negri by virtue of paragraph (*a*), a person who is not a citizen does any of the things referred to in the said paragraph (*g*), he shall vacate his seat in the Council.

(3) The Standing Orders of the existing Council Negri as in force immediately before the commencement of this Constitution shall, until they are replaced by Standing Orders made by the new Council Negri, be the Standing Orders of the new Council but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of this Constitution.

(4) In this Article " the existing Council Negri " means the Council Negri established by the existing Orders and " the new Council Negri " means the Council Negri established by this Constitution.

52. (1) Part III, except Article 28, shall not come into operation until 1st January 1964. Transitional financial provisions.

(2) Until the coming into operation of Part III, any sums which under this Constitution (including Part III) are a charge on the Consolidated Fund shall be a charge on the revenues and other funds of the State and payment thereof shall be made by virtue of this clause without further authority of any law.

(3) Nothing in clause (1) shall prevent the making of any provision or doing of any other thing before 1st January 1964 for the purposes of Part III in respect of the financial year beginning on that date.

53. Any person who, immediately before the commencement of this Constitution, holds office as Chairman, Deputy Chairman or any other member of the Public Service Commission established by the Sarawak (Public Service Commission) Order in Council 1961 shall, as from the commencement of this Constitution, hold the like office as a member of the Commission established by this Constitution as if he had been appointed thereto under Article 35 for a period of two years from the commencement of this Constitution. Transitional provisions relating to Public Service Commission.

54. (1) Subject to the provisions of the Federal Constitution and this Constitution, any person who immediately before the commencement of this Constitution is in the service of Her Majesty in respect of the government of the colony of Sarawak shall— Existing Officers.

(*a*) on the commencement of this Constitution cease to be in such service and become a person in the service of the State;

(*b*) so long as he continues in such service, be entitled to terms and conditions of service not less favourable than those applicable to him immediately before the commencement of this Constitution;

(*c*) be deemed to have been appointed on the commencement of this Constitution to hold or to act in any office in the service of the State corresponding to that which he holds or is acting in immediately before the commencement of this Constitution and to have taken any oath in connection therewith required by law.

(2) For the purposes of clause (1)—

(*a*) any terms or conditions of service for which, on or after Malaysia Day, a person opts shall be deemed to be not less favourable than those applicable to him immediately before the commencement of this Constitution;

(*b*) the offices of State Secretary, State Attorney-General and State Financial Secretary shall, unless the Governor of the colony of Sarawak otherwise directs, be regarded as corresponding respectively to the offices of Chief Secretary, Attorney-General and Financial Secretary of the colony of Sarawak; and

(c) The Governor may by order declare that any other office specified in such order shall be regarded as corresponding to another office so specified.

(3) Clause (1) does not apply to the Governor of the colony of Sarawak.

Secondment of members of the Public Service to Federal Service.

55. (1) All persons who on the commencement of this Constitution are members of the police force in the State (and are not on leave pending retirement) shall on Malaysia Day be seconded to the police force of the Federation.

(2) Where on Malaysia Day any post in the judicial and legal branch of the public service becomes a post in the judicial and legal service of the Federation any person serving in that post on the commencement of this Constitution shall on Malaysia Day be seconded to the judicial and legal service of the Federation.

(3) Subject to Clause (4), where on Malaysia Day or any day thereafter any post in the public service becomes a post in the general public service of the Federation any person serving in that post immediately before that day shall on that day be seconded to the general public service of the Federation.

(4) Clause (3) shall not apply to persons in such grades of service as the Governor may, with the consent of the Yang di-Pertuan Agong, direct.

(5) The power conferred on the Governor by clause (4) may be exercised by the Governor of the colony of Sarawak at any time after the publication of this Constitution in the Gazette.

Compulsory retirement to facilitate appointment of local candidates.

56. (1) If the Chief Minister so requests, the Commission shall consider whether there are more local candidates suitably qualified for appointment to, or promotion in, any branch of the public service specified by the Chief Minister than there are vacancies in that branch that could appropriately be filled by such local candidates ; and the Commission, if satisfied that such is the case, shall, if so requested by the Chief Minister, select officers in that branch to whom this Article applies and whose retirement would in the opinion of the Commission cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and inform the Chief Minister of the number of officers so selected ; and if the Chief Minister specified a number of officers to be called upon to retire (not exceeding the number of officers so selected) the Commission shall nominate that number of officers from among the officers so selected and by notice in writing require them to retire from the public service ; and any officer who is so required to retire shall retire accordingly.

(2) An officer who has been given notice by or on behalf of the Government of the State or of the colony of Sarawak that he will continue to be employed in the public service for a minimum period specified in the notice shall not be required to retire under clause (1) before the expiry of that period.

(3) This Article applies to—

(*a*) any entitled officer as defined in the Schedule to the Sarawak (Compensation and Retiring Benefits) Order in Council, 1963 ; and

(*b*) any officer on probation who, if he had been confirmed in his appointment, would have been such an entitled officer.

57. (1) There shall be a Police Board for the State which shall consist of— Police Board.

(*a*) the Chairman of the Commission, who shall be the Chairman of the Board ;

(*b*) the State Attorney-General ;

(*c*) the senior officer of police in the State ; and

(*d*) a person designated by the Director of Police Affairs.

(2) Notwithstanding clause (1) of Article 36, it shall be the duty of the Police Board to exercise disciplinary control over members of the public service who are seconded to the police force.

(3) The Police Board may, by directions in writing and subject to such conditions as it thinks fit, delegate to any police officer, or to any board of police officers appointed by it, any of its functions under clause (2) in respect of any rank in the police force, and that officer or board shall exercise those functions under the direction and control of the Police Board.

(4) The functions conferred by this Article shall be exercised in accordance with the provisions of any Federal law prescribing offences against police force discipline and the punishment that may be imposed for any such offence.

(5) At any meeting of the Police Board two members including the Chairman or, if the Chairman is not present, three members shall form a quorum ; and if on any question the votes of the members present are equally divided the Chairman may exercise a casting vote.

(6) Subject to clause (5), the Police Board may act notwithstanding any vacancy in its membership, and any proceeding of the Board shall be valid notwithstanding that some person not entitled to do so took part therein.

(7) Subject to the provisions of this Article, the Police Board may regulate its procedure and make rules for that purpose.

58. When a person who is not a citizen is required by this Constitution to take an oath on becoming an *ex officio* member of the Supreme Council or the Council Negri, the Speaker or a nominated member of the Council Negri or the Chairman of the Commission, the words " and allegiance " shall be omitted from the oath. Modification of form of oath in certain cases.

THE SCHEDULE

Forms of Oaths and Affirmations

(Articles 4, 8, 22 and 35 (8))

Part I

Oath of Office of Governor

I, , having been appointed as (or to exercise the functions of) Governor of the State of Sarawak, do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Sarawak and to the Federation of Malaysia and that I will preserve, protect and defend the Constitution of the State of Sarawak.

Part II

Oath of Member of Supreme Council

I, , having been appointed to the office of (or having become an *ex officio* member of the Supreme Council) do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, that I will bear true faith and allegiance to the State of Sarawak and to the Federation of Malaysia, that I will preserve, protect and defend the Constitution of the State of Sarawak, and that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as a member of the Supreme Council of the State of Sarawak except as may be required for the due discharge of my duties as such or may be specially permitted by the Governor.

Part III

Oath of Speaker or Member of the Council Negri

I, , having been elected (or appointed) as a member (or Speaker) (or having become an *ex officio* member) of the Council Negri of the State of Sarawak, do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Sarawak and to the Federation of Malaysia and that I will preserve, protect and defend the Constitution of the State of Sarawak.

Part IV

Oath of Member of Public Service Commission

I, , having been appointed to the office of a member of the Public Service Commission of the State of Sarawak do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, and that I will bear true faith and allegiance to the State of Sarawak and will preserve, protect and defend its Constitution.

ANNEX D

Constitution of the State of Singapore

TABLE OF CONTENTS

PART I

THE STATE GOVERNMENT

Chapter 1—The Yang di-Pertuan Negara

PART III

CITIZENSHIP

PART VII

TEMPORARY AND TRANSITIONAL PROVISIONS

CONSTITUTION OF THE STATE OF SINGAPORE

PART I

THE STATE GOVERNMENT

Chapter I

YANG DI-PERTUAN NEGARA

The Yang di-Pertuan Negara.

1. (1) There shall be a Yang di-Pertuan Negara of the State, who shall be appointed by the Yang di-Pertuan Agong acting in his discretion but after consultation with the Prime Minister.

(2) The Yang di-Pertuan Negara shall be appointed for a term of four years but may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong and may be removed from office by the Yang di-Pertuan Agong in pursuance of an address by the Legislative Assembly supported by the votes of not less than two-thirds of the total number of the Members thereof.

(3) The Yang di-Pertuan Agong, acting in his discretion but after consultation with the Prime Minister, may appoint a person to exercise the functions of the Yang di-Pertuan Negara during any period during which the Yang di-Pertuan Negara is unable to do so himself owing to illness, absence or any other cause; but no person shall be so appointed unless he would be qualified to be appointed as Yang di-Pertuan Negara.

(4) A person appointed under clause (3) of this Article may take the place of the Yang di-Pertuan Negara as a member of the Conference of Rulers during any period during which, under that clause, he may exercise the functions of Yang di-Pertuan Negara.

Qualifications and disabilities of Yang di-Pertuan Negara.

2. (1) A person who is not a citizen of Malaysia born in Malaya shall not be appointed Yang di-Pertuan Negara.

(2) The Yang di-Pertuan Negara shall not hold any office of profit and shall not actively engage in any commercial enterprise.

Oath of office of Yang di-Pertuan Negara.

3. The Yang di-Pertuan Negara or person appointed to exercise the functions of the Yang di-Pertuan Negara under clause (3) of Article 1 of this Constitution shall before exercising his functions take and subscribe in the presence of the Chief Justice of Singapore or of another Judge of the High Court an oath in the form set out in the First Schedule to this Constitution.

Civil List and Personal Staff of Yang di-Pertuan Negara and remuneration of acting Yang di-Pertuan Negara.

4. (1) The Legislature shall by law provide a Civil List for the Yang di-Pertuan Negara.

(2) Any other person authorised under this Constitution to exercise the functions of the office of Yang di-Pertuan Negara shall, during any period during which he exercises those functions, be entitled to such remuneration as the Legislature may by law provide.

(3) The Civil List of the Yang di-Pertuan Negara and the remuneration to which any person is entitled under the preceding clause shall be charged on and paid out of the Consolidated Fund and shall not be diminished during the continuance in office of the Yang di-Pertuan Negara or, as the case may be, during the period during which the said person exercises the functions of the office of Yang di-Pertuan Negara.

(4) Subject to the provisions of the following clause, the appointment, terms of service, disciplinary control, termination of appointment and dismissal of the personal staff of the Yang di-Pertuan Negara shall be matters for the Yang di-Pertuan Negara acting in his discretion.

(5) The Yang di-Pertuan Negara, if he so desires, may appoint to his personal staff such public officers as he may select, after consultation with the Prime Minister, from a list submitted by the Public Service Commission and the provisions of the preceding Clause (except in so far as they relate to appointment) shall apply in relation to a person so appointed as respects his service on the personal staff of the Yang di-Pertuan Negara but not as respects his service as a public officer.

(6) The remuneration of the personal staff of the Yang di-Pertuan Negara, other than a person appointed under the preceding clause, shall be defrayed out of the Civil List of the Yang di-Pertuan Negara.

Yang di-Pertuan Negara to act on advice.

5. (1) In the exercise of his functions under this Constitution or any law or as a member of the Conference of Rulers the Yang di-Pertuan Negara shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet, except as otherwise provided by the Federal Constitution or this Constitution ; but shall be entitled, at his request, to any information concerning the Government of the State which is available to the Cabinet.

(2) The Yang di-Pertuan Negara may act in his discretion in the performance of the following functions (in addition to those in the performance of which he may act in his discretion under the Federal Constitution or the other provisions of this Constitution) that is to say—

(*a*) the appointment of the Prime Minister ;

(*b*) the withholding of consent to a request for the dissolution of the Legislative Assembly.

(3) The Legislature may by law make provision for requiring the Yang di-Pertuan Negara to act after consultation with or on the recommendation of any person or body of persons other than the Cabinet in the exercise of his functions other than—

(*a*) functions exercisable in his discretion ;

(*b*) functions with respect to the exercise of which provision is made in any other provision of this Constitution or in the Federal Constitution.

Chapter 2—Muslim Religion

6. (1) The Yang di-Pertuan Agong shall be the Head of the Muslim religion in the State. Muslim religion.

(2) The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a Council to advise the Yang di-Pertuan Agong in matters relating to the Muslim religion.

Chapter 3—The Executive

7. (1) The executive authority of the State shall be vested in the Yang di-Pertuan Negara and exercisable subject to the provisions of this Constitution by him or by the Cabinet or any Minister authorised by the Cabinet. Executive authority of the State.

(2) The Legislature may by law confer executive functions on other persons.

8. (1) There shall be in and for the State a Cabinet which shall consist of the Prime Minister and such other Ministers as may be appointed in accordance with the provisions of the following Article. Cabinet.

(2) Subject to the provisions of the Federal Constitution and of this Constitution, the Cabinet shall have the general direction and control of the Government of the State and shall be collectively responsible to the Legislative Assembly.

9. (1) The Yang di-Pertuan Negara shall appoint as Prime Minister a Member of the Legislative Assembly who in his judgment is likely to command the confidence of the majority of the Members of the Legislative Assembly, and shall, acting in accordance with the advice of the Prime Minister, appoint other Ministers from among the Members of the Legislative Assembly: Appointment of Ministers.

Provided that, if an appointment is made while the Legislative Assembly is dissolved, a person who was a member of the last Legislative Assembly may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.

(2) Appointments under this Article shall be made by the Yang di-Pertuan Negara by instrument under the public seal.

10. (1) The Yang di-Pertuan Negara shall, by writing under the public seal, declare the office of Prime Minister vacant— Tenure of office of Ministers.

(*a*) if the Prime Minister resigns his office by writing under his hand addressed to the Yang di-Pertuan Negara ; or

(*b*) if the Yang di-Pertuan Negara acting in his discretion is satisfied that the Prime Minister has ceased to command the confidence of a majority of the Members of the Legislative Assembly:

Provided that, before declaring the office of Prime Minister vacant under this paragraph, the Yang di-Pertuan Negara

shall inform the Prime Minister that he is satisfied as aforesaid, and, if the Prime Minister so requests, the Yang di-Pertuan Negara may dissolve the Legislative Assembly instead of making such a declaration.

(2) A Minister other than the Prime Minister shall vacate his office—

(*a*) if his appointment to that office is revoked by the Yang di-Pertuan Negara, acting in accordance with the advice of the Prime Minister, by instrument under the public seal; or

(*b*) if he resigns his office by writing under his hand addressed to the Yang di-Pertuan Negara.

(3) A person who has vacated his office as Minister may, if qualified, be again appointed as Minister from time to time.

(4) (*a*) Whenever the Prime Minister is ill or absent from the Federation or has been granted leave of absence from his duties under Article 16 of this Constitution, the functions conferred on him by this Constitution shall be exercisable by any other Minister authorized by the Yang di-Pertuan Negara, by instrument under the public seal, in that behalf.

(*b*) The Yang di-Pertuan Negara may, by instrument under the public seal, revoke any authority given under this clause.

(*c*) The powers conferred upon the Yang di-Pertuan Negara by this clause shall be exercised by him acting in his discretion, if in his opinion it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's illness or absence, and in any other case shall be exercised by the Yang di-Pertuan Negara in accordance with the advice of the Prime Minister.

(*d*) The Prime Minister shall not, for the purpose of this clause, be regarded as absent from the Federation at any time during his passage from one part of the Federation to another.

Oath.

11. The Prime Minister and every other Minister shall, before entering on the duties of his office, take and subscribe before the Yang di-Pertuan Negara the Oath of Allegiance and the appropriate Oath for the due execution of his office in the forms set out in the First Schedule to this Constitution.

Summoning of and presiding in the Cabinet.

12. (1) The Cabinet shall not be summoned except by the authority of the Prime Minister.

(2) The Prime Minister shall, so far as is practicable, attend and preside at meetings of the Cabinet and, in his absence, such other Minister shall preside as the Prime Minister shall appoint.

Validity of proceedings in the Cabinet.

13. Any proceedings in the Cabinet shall be valid notwithstanding that some person who was not entitled so to do sat or voted therein or otherwise took part in the proceedings.

Assignment of responsibility to Ministers.

14. (1) The Prime Minister may, by directions in writing—

(*a*) charge any Minister with responsibility for any department or subject;

(*b*) revoke or vary any directions given under this clause.

(2) The Prime Minister may retain in his charge any department or subject.

15. (1) The Yang di-Pertuan Negara, acting in accordance with the advice of the Prime Minister, may by instrument under the public seal, appoint Parliamentary Secretaries from among the Members of the Legislative Assembly to assist Ministers in the discharge of their duties and functions: Parliamentary Secretaries.

Provided that, if an appointment is made while the Legislative Assembly is dissolved, a person who was a member of the last Legislative Assembly may be appointed a Parliamentary Secretary but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.

(2) The provisions of clauses (2) and (3) of Article 10 and the provisions of Article 11 of this Constitution shall apply to Parliamentary Secretaries as they apply to Ministers.

16. The Yang di-Pertuan Negara, acting in accordance with the advice of the Prime Minister, may grant leave of absence from his duties to the Prime Minister, to any other Minister and to any Parliamentary Secretary. Leave of absence for Ministers and Parliamentary Secretaries.

17. A member of the Cabinet or Parliamentary Secretary shall not hold any office of profit and shall not actively engage in any commercial enterprise. Disabilities of Ministers and Parliamentary Secretaries.

18. (1) There shall be for each Ministry one or more Permanent Secretaries who shall be persons who are public officers. Permanent Secretaries.

(2) (*a*) Appointments to the grade of Permanent Secretary shall be made by the Yang di-Pertuan Negara acting in accordance with the advice of the Prime Minister, from a list of names submitted by the Public Service Commission.

(*b*) The responsibility for the allocation of each Permanent Secretary to a Ministry shall be vested in the Prime Minister.

(3) Every Permanent Secretary shall, subject to the general direction and control of the Minister, exercise supervision over the department or departments to which he is allocated.

19. (1) The office of State Advocate-General is hereby constituted and appointments thereto shall be made by the Yang di-Pertuan Negara, acting in accordance with the advice of the Prime Minister, from among persons who are qualified for appointment as a Judge of the High Court. State Advocate-General.

(2) When it is necessary to make an appointment to the office of State Advocate-General otherwise than by reason of the death of the

holder of that office or his removal from office under clause (6) of this Article, the Prime Minister shall, before tendering advice to the Yang di-Pertuan Negara under the preceding clause, consult the person holding the office of State Advocate-General or, if that office is then vacant, the person who has last vacated it, and the Prime Minister shall, in every case, before tendering such advice, consult the Chief Justice of Singapore and the Chairman of the Public Service Commission.

(3) The Prime Minister shall not be obliged to consult any person under the provisions of the preceding clause if he satisfied that by reason of the infirmity of body or mind of that person or for any other reason it is impracticable so to do.

(4) The State Advocate-General may be appointed for a specific period and, if he was so appointed, shall, subject to the provisions of clause (6) of this Article, vacate his office (without prejudice to his eligibility for re-appointment) at the expiration of that period, but, subject as aforesaid, shall otherwise hold office until he attains the age of fifty-five years:

Provided that—

(*a*) he may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Negara ; and

(*b*) the Yang di-Pertuan Negara, acting in accordance with the advice of the Prime Minister, may permit a State Advocate-General who has attained the age of fifty-five years to remain in office for such fixed period as may have been agreed between the State Advocate-General and the Government.

(5) Nothing done by the State Advocate-General shall be invalid by reason only that he has attained the age at which he is required by this Article to vacate his office.

(6) (*a*) The State Advocate-General may be removed from office by the Yang di-Pertuan Negara, acting in accordance with the advice of the Prime Minister, but the Prime Minister shall not tender such advice except for inability of the State Advocate-General to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and except with the concurrence of a tribunal consisting of the Chief Justice of Singapore and two other Judges of the High Court nominated for that purpose by the Chief Justice of Singapore.

(*b*) The tribunal constituted under this clause shall regulate its own procedure and may make rules for that purpose.

(7) It shall be the duty of the State Advocate-General to advise the Government upon such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Yang di-Pertuan Negara or the Cabinet and to discharge the functions conferred on him by or under this Constitution, the Federal Constitution, or any other written law.

(8) The State Advocate-General shall be paid such remuneration and allowances as may from time to time be determined and such remuneration and allowances shall be charged on and paid out of the Consolidated Fund.

(9) Subject to the provisions of this Article, the terms of service of the State Advocate-General shall either—

(*a*) be determined by or under any law made under this Constitution ; or

(*b*) (in so far as they are not determined by or under any such law) be determined by the Yang di-Pertuan Negara.

(10) The terms of service of the State Advocate-General shall not be altered to his disadvantage during his continuance in office.

(11) For the purposes of the preceding clause, in so far as the terms of service of the State Advocate-General depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.

20. (1) The Yang di-Pertuan Negara acting in accordance with the advice of the Prime Minister may appoint a public officer to be the Secretary to the Cabinet. Secretary to the Cabinet.

(2) The Secretary to the Cabinet shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the meetings of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the Prime Minister may from time to time direct.

Chapter 4—Capacity as regards property, contracts and suits

21. (1) The State shall have power to acquire, hold and dispose of property of any kind and to make contracts. Capacity of State as regards property, contracts and suits.

(2) The State may sue and be sued.

PART II

THE LEGISLATURE

22. The Legislature of the State shall consist of the Yang di-Pertuan Negara and the Legislative Assembly. Legislature of the State.

23. (1) The Legislative Assembly shall consist of such number of elected Members as the Legislature may by law provide, and until other provision is so made, the number of Members shall be fifty-one. Legislative Assembly.

(2) If any person who is not a Member of the Legislative Assembly is elected as Speaker, he shall by virtue of holding the office of Speaker, be a Member of the Legislative Assembly in addition to the Members aforesaid, except for the purposes of Chapter 3 of Part I and of Article 30 of this Constitution.

Speaker.

24. (1) When the Legislative Assembly first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be Speaker, and, whenever the office of Speaker is vacant otherwise than by reason of a dissolution of the Legislative Assembly, shall not transact any business other than the election of a person to fill that office.

(2) The Speaker may be elected, in such manner as the Legislative Assembly may from time to time decide, either from among the Members of the Legislative Assembly who are neither Ministers nor Parliamentary Secretaries or from among persons who are not Members of the Legislative Assembly:

Provided that a person who is not a Member of the Legislative Assembly shall not be elected as Speaker if, under any of the provisions of this Constitution, he is not qualified for election as a Member of the Legislative Assembly.

(3) Upon the Speaker being elected and before he enters upon the duties of his office, he shall (unless he has already done so in accordance with the provisions of Article 45 of this Constitution) take and subscribe before the Legislative Assembly the Oath of Allegiance in the form set out in the First Schedule to this Constitution.

(4) The Speaker may at any time resign his office by writing under his hand addressed to the Clerk of the Legislative Assembly, and shall vacate his office—

(*a*) when the Legislative Assembly first meets after a general election; or

(*b*) in the case of a Speaker elected from among the Members of the Legislative Assembly, if he ceases to be a Member of the Legislative Assembly otherwise than by reason of a dissolution thereof or if he is appointed to be a Minister or a Parliamentary Secretary; or

(*c*) in the case of a Speaker elected from among persons who are not Members of the Legislative Assembly, if any circumstance arises that, if he had been elected to a seat in the Legislative Assembly, would cause him to vacate his seat by virtue of paragraph (*a*) or paragraph (*d*) of clause (2) of Article 30 of this Constitution.

Remuneration of Speaker.

25. The Speaker shall be paid such salary as the Legislative Assembly may from time to time determine, and that salary, which is hereby charged on the Consolidated Fund, shall not be diminished during his continuance in office.

Deputy Speaker.

26. (1) When the Legislative Assembly first meets after any general election, it shall, as soon as practicable, elect a Member thereof, not being a Minister or a Parliamentary Secretary to be Deputy Speaker; and whenever the office of Deputy Speaker becomes vacant otherwise than by reason of a dissolution of the Legislative Assembly, the Legislative Assembly shall, as soon as convenient, elect another such Member thereof to that office.

(2) The Deputy Speaker may at any time resign his office, by writing under his hand addressed to the Clerk of the Legislative Assembly, and shall vacate his office—

(*a*) if he ceases to be a Member of the Legislative Assembly; or

(*b*) if he is appointed to be a Minister or a Parliamentary Secretary; or

(*c*) if he is elected as Speaker.

(3) The Deputy Speaker shall be paid such salary or allowance as the Legislative Assembly may from time to time determine, and that salary or allowance, which is hereby charged on the Consolidated Fund, shall not be diminished during his continuance in office.

Performance of functions of Speaker.

27. The functions conferred by this Constitution upon the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from a sitting of the Legislative Assembly or is otherwise unable to perform those functions, be performed by the Deputy Speaker, or if there be no Deputy Speaker or if he is likewise absent or unable to perform those functions, by some other person to be elected by the Legislative Assembly for the purpose.

Qualifications for membership of Legislative Assembly.

28. (1) Members of the Legislative Assembly shall be persons qualified for election in accordance with the provisions of this Constitution and elected in the manner provided by or under any law for the time being in force in the State.

(2) A person shall be qualified to be elected as a Member of the Legislative Assembly if—

(*a*) he is a citizen of Singapore;

(*b*) he is of the age of twenty-one years or upwards on the day of nomination;

(*c*) his name appears in a current register of electors;

(*d*) he is resident in the State at the date of his nomination for election;

(*e*) he is able, with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Legislative Assembly, to speak and, unless incapacitated by blindness or other physical cause, to read and write at least one of the following languages, that is to say, English, Malay, Mandarin and Tamil; and

(*f*) he is not disqualified from being a Member of the Legislative Assembly under the provisions of Article 29 of this Constitution.

(3) Any question whether any person possesses the qualifications mentioned in paragraph (*e*) of the preceding clause shall be determined in such manner as may be prescribed by or under any law for the time being in force in the State or, in so far as not so prescribed, as may be provided by Order made by the Yang di-Pertuan Negara and published in the Gazette.

Disqualification for membership of Legislative Assembly.

29. (1) Subject to the provisions of this Article, a person shall not be qualified to be a Member of the Legislative Assembly who—

(*a*) is and has been found or declared to be of unsound mind;

(*b*) is an undischarged bankrupt;

(*c*) holds an office of profit;

(*d*) having been nominated for election to either House of Parliament or to the Legislative Assembly or having acted as election agent to a person so nominated, has failed to lodge any return of election expenses required by law within the time and in the manner so required;

(*e*) has been convicted of an offence by a court of law in any part of the Federation and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand dollars and has not received a free pardon;

(*f*) has voluntarily acquired citizenship of, or exercised rights of citizenship in a foreign country or has made a declaration of allegiance to a foreign country;

(*g*) is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Legislative Assembly by reason of having been convicted of such an offence or having in proceedings relating to such an election been proved guilty of an act constituting such an offence.

(2) The disqualification of a person under paragraph (*d*) or paragraph (*e*) of clause (1) of this Article may be removed by the Yang di-Pertuan Negara and shall, if not so removed, cease at the end of five years beginning from the date on which the return mentioned in the said paragraph (*d*) was required to be lodged or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (*e*) was released from custody or the date on which the fine mentioned in the said paragraph (*e*) was imposed on such person; and a person shall not be disqualified under paragraph (*f*) of clause (1) of this Article by reason only of anything done by him before he became a citizen.

(3) In paragraph (*f*) of clause (1) of this Article " foreign country " has the same meaning as in the Federal Constitution.

Tenure of office of Members.

30. (1) Every Member of the Legislative Assembly shall cease to be a Member at the next dissolution of the Legislative Assembly after he has been elected, or previously thereto if his seat becomes vacant, under the provisions of this Constitution.

(2) The seat of a Member of the Legislative Assembly shall become vacant—

(*a*) if he ceases to be a citizen of Singapore; or

(*b*) if, by writing under his hand addressed to the Speaker, he resigns his seat in the Legislative Assembly; or

(*c*) if during two consecutive months in each of which sittings of the Legislative Assembly (or any committee of the Legislative Assembly to which he has been appointed) are held,

he is absent from all such sittings without having obtained from the Speaker before the termination of any such sitting permission to be or to remain absent therefrom ; or

(*d*) if he becomes subject to any of the disqualifications specified in Article 29 of this Constitution.

(3) Any person whose seat in the Legislative Assembly has become vacant may, if qualified, again be elected as a Member of the Legislative Assembly from time to time.

Provision against double membership.

31. A person shall not be at the same time a Member of the Legislative Assembly for more than one constituency.

Decision of questions as to disqualification.

32. Any question whether—

(*a*) any Member of the Legislative Assembly has vacated his seat therein ;

(*b*) in the case of any person who has been elected as Speaker from among persons who are not Members of the Legislative Assembly, any circumstance has arisen that, if he had been elected to a seat in the Legislative Assembly, would cause him to vacate his seat by virtue of paragraph (*a*) or paragraph (*d*) of clause (2) of Article 30 of this Constitution,

shall be determined by the Legislative Assembly whose decision shall be final :

Provided that this Article shall not be taken to prevent the practice of the Legislative Assembly postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

Filling of vacancies.

33. Whenever the seat of a Member has become vacant for any reason other than a dissolution, the vacancy shall within three months from the date on which it is established that there is a vacancy be filled by election in the manner provided by or under any law for the time being in force in the State.

Penalty for unqualified persons sitting or voting in the Legislative Assembly.

34. (1) Any person who sits or votes in the Legislative Assembly, knowing or having reasonable ground for knowing that he is not entitled to do so, shall be liable to a penalty not exceeding two hundred dollars for each day on which he so sits or votes.

(2) The said penalty shall be recoverable by action in the High Court at the suit of the State Advocate-General.

Staff of Legislative Assembly.

35. (1) The staff of the Legislative Assembly shall consist of a Clerk of the Legislative Assembly, and such other officers as may from time to time be appointed under Part IV of this Constitution to assist him.

(2) The Clerk of the Legislative Assembly shall be appointed by the Yang di-Pertuan Negara after consultation with the Speaker and the Public Service Commission.

(3) The Clerk of the Legislative Assembly may at any time resign his office by writing under his hand addressed to the Speaker and, subject to the provisions of the following clause, may be removed from office by the Yang di-Pertuan Negara after consultation with the Speaker.

(4) The Clerk of the Legislative Assembly shall not be removed from office under the preceding clause unless the Legislative Assembly, by a resolution which has received the affirmative vote of not less than two-thirds of all the Members thereof, has resolved that he ought to be so removed for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(5) The staff of the Legislative Assembly shall not be eligible for promotion or transfer to any other office in the public service without the consent of the Speaker.

(6) Subject to the provisions of Article 101 of this Constitution, the terms of service of the staff of the Legislative Assembly may be determined by the Legislative Assembly after receiving the advice of a Commission consisting of the following persons, that is to say: —

(*a*) the Speaker, as Chairman;

(*b*) not more than three Ministers nominated by the Prime Minister, of whom one shall be the Minister responsible for finance; and

(*c*) a member of the Public Service Commission.

Standing Orders.

36. Subject to the provisions of this Constitution, the Legislative Assembly may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business.

Use of languages in Legislative Assembly.

37. Until the Legislature otherwise provides all debates and discussions in the Legislative Assembly shall be conducted in the Malay, English, Mandarin or Tamil languages.

Presiding in Legislative Assembly.

38. The Speaker shall preside at each sitting of the Legislative Assembly.

Validity of proceedings of Legislative Assembly.

39. The Legislative Assembly shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof, including any vacancy not filled when the Legislative Assembly is first constituted or is reconstituted at any time; and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Legislative Assembly or otherwise took part in the proceedings.

Quorum.

40. If objection is taken by any Member present that there are present (besides the Speaker or other Member presiding) fewer than one-quarter of the total number of Members and, after such interval as may be prescribed in the Standing Orders of the Legislative Assembly, the

Speaker or other Member presiding ascertains that the number of Members present is still less than one quarter of the total number of Members, he shall thereupon adjourn the Legislative Assembly.

41. (1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Legislative Assembly shall be determined by a majority of the votes of the Members present and voting; and if, upon any question before the Legislative Assembly, the votes of the Members are equally divided, the motion shall be lost. Voting.

(2) If the Speaker has been elected from among persons who are not Members of the Legislative Assembly, he shall not vote, but, subject to this provision, the Speaker or other person presiding shall have an original vote but no casting vote.

42. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Legislative Assembly and assented to by the Yang di-Pertuan Negara. Exercise of legislative power.

(2) A Bill shall become law on being assented to by the Yang di-Pertuan Negara and such law shall come into operation on the date of its publication in the Gazette or, if it is enacted either in such law or in any other law for the time being in force in the State that it shall come into operation on some other date, on that date.

43. (1) Subject to the provisions of this Constitution and of Standing Orders of the Legislative Assembly, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Legislative Assembly, and the same shall be debated and disposed of according to the Standing Orders of the Legislative Assembly. Introduction of Bills.

(2) A Bill or amendment making provision (whether directly or indirectly) for—

(*a*) imposing or increasing any tax or abolishing, reducing or remitting any existing tax; or

(*b*) the borrowing of money, or the giving of any guarantee, by the State, or the amendment of the law relating to the financial obligations of the State;

(*c*) the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition or alteration of any such charge;

(*d*) the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any increase in the amount of such a payment, issue or withdrawal;

(*e*) the receipt of any moneys on account of the Consolidated Fund or the custody or issue of such moneys;

being provision as respects which the Minister charged with responsibility for finance signifies that it goes beyond what is incidental only and not of a substantial nature having regard to the purposes of the Bill or amendment, shall not be introduced or moved except on the recommendation of the Yang di-Pertuan Negara signified by a Minister.

(3) A Bill or amendment shall not be deemed to make provision for any of the said matters by reason only that it provides for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee or a fee or charge for any service rendered.

Words of enactment of laws.

44. In every Bill presented for assent the words of enactment shall be as follows :—

" Be it enacted by the Yang di-Pertuan Negara with the advice and consent of the Legislative Assembly of Singapore, as follows :— ".

Oath of Allegiance.

45. No Member of the Legislative Assembly shall be permitted to take part in the proceedings thereof (other than proceedings necessary for the purpose of this Article) until he has taken and subscribed before the Legislative Assembly the Oath of Allegiance in the form set out in the First Schedule to this Constitution :

Provided that the election of a Speaker may take place before the Members of the Legislative Assembly have taken and subscribed such Oath.

Address by Yang di-Pertuan Negara.

46. The Yang di-Pertuan Negara may address the Legislative Assembly and may send messages thereto.

Privileges of the Legislative Assembly and Members.

47. Subject to the provisions of the Federal Constitution, it shall be lawful for the Legislature by law to determine and regulate the privileges, immunities or powers of the Legislative Assembly ; but no such privileges, immunities or powers shall exceed those of the Federal House of Representatives.

Sessions of the Legislative Assembly.

48. (1) There shall be a session of the Legislative Assembly once at least in every year and a period of six months shall not intervene between the last sitting of the Legislative Assembly in any one session and the first sitting thereof in the next session.

(2) The sessions of the Legislative Assembly shall be held in such places and shall commence at such times as the Yang di-Pertuan Negara may from time to time appoint by Proclamation in the Gazette.

Prorogation and dissolution.

49. (1) The Yang di-Pertuan Negara may at any time, by Proclamation in the Gazette, prorogue the Legislative Assembly.

(2) If, at any time, the office of Prime Minister is vacant, the Yang di-Pertuan Negara shall, by Proclamation in the Gazette, dissolve the Legislative Assembly as soon as he is satisfied, acting in his discretion, that a reasonable period has elapsed since that office was last vacated and that there is no Member of the Legislative Assembly likely to command the confidence of a majority of the Members thereof.

(3) The Yang di-Pertuan Negara may at any time, by Proclamation in the Gazette, dissolve the Legislative Assembly if he is advised

by the Prime Minister so to do, but he shall not be obliged to act in this respect in accordance with the advice of the Prime Minister unless he is satisfied that, in tendering that advice, the Prime Minister commands the confidence of a majority of the Members of the Legislative Assembly.

(4) The Legislative Assembly unless sooner dissolved shall continue for five years from the date of its first sitting and shall then stand dissolved.

50. There shall be a general election at such time within three months after every dissolution of the Legislative Assembly as the Yang di-Pertuan Negara shall appoint by Proclamation published in the Gazette. General elections.

51. The Legislature may by law make provision for the remuneration of Members of the Legislative Assembly. Remuneration of Members.

52. Any law enacted by the Legislature after the coming into operation of this Constitution which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void. Supremacy of Constitution.

PART III

CITIZENSHIP

53. (1) There shall be a status known as " citizen of Singapore ". Status of citizen of Singapore.

(2) The status of a citizen of Singapore may be acquired—

(*a*) by birth ;

(*b*) by descent ;

(*c*) by registration or enrolment ; or

(*d*) under the provisions of the Federal Constitution by naturalisation.

(3) In accordance with the position of the State within the Federation every person who is a citizen of Singapore enjoys by virtue of that citizenship and in accordance with the provisions of the Federal Constitution the status of a citizen of Malaysia.

54. (1) Subject to the provisions of this Article, every person born in the State after the coming into operation of this Constitution shall be a citizen of Singapore by birth. Citizenship by birth.

(2) A person shall not be a citizen of Singapore by virtue of clause (1) of this Article if at the time of his birth—

(*a*) his father, not being a citizen of Malaysia, possessed such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong ; or

(*b*) his father was an enemy alien and the birth occurred in a place then under the occupation of the enemy ; or

(*c*) neither of his parents was a citizen of Singapore and neither of them was a permanent resident in the Federation:

Provided that paragraph (*c*) of this clause shall not apply to any person if, as a result of the application of that paragraph, he would not be a citizen of any country.

Citizenship by descent

55. (1) A person born outside the Federation after the coming into operation of this Constitution shall be a citizen of Singapore by descent if at the time of the birth his father is a citizen of Singapore:

Provided that such person shall not be such a citizen unless his birth is registered at a Consulate of the Federation or with the Government in the prescribed manner within one year of its occurrence or with the permission of the Government later.

(2) A person born in the Federation outside the State on or after the date of the coming into operation of this Constitution shall be a citizen of Singapore by descent if one at least of his parents is at the time of his birth a citizen of Singapore and he is not born a citizen of Malaysia otherwise than by virtue of this clause.

Transfer of citizenship.

56. (1) Subject to the provisions of this Constitution, a person of or over the age of twenty-one years, not being a citizen of Singapore, who is a citizen of Malaysia may on making application therefor to the Government in the prescribed form be enrolled as a citizen of Singapore if he satisfies the Government that he—

(*a*) is of good character;

(*b*) has resided in the State throughout the twelve months immediately preceding the date of his application;

(*c*) has during the twelve years immediately preceding the date of his application resided in the State for periods amounting in the aggregate to not less than ten years;

(*d*) intends to reside permanently in the State; and

(*e*) has an elementary knowledge of the national language:

Provided that the Government may exempt an applicant who has attained the age of forty-five years or who is deaf or dumb from compliance with the provisions of paragraph (e) of this clause.

(2) In relation to citizens of Malaysia who are not citizens of Singapore, clause (2) of Article 57 and Article 58 of this Constitution shall apply to allow them to be enrolled as citizens of Singapore in the same way as those provisions apply in relation to persons who are not citizens of Malaysia to allow them to be registered as citizens of Singapore.

Citizenship by registration.

57. (1) Subject to the provisions of this Constitution, any person of or over the age of twenty-one years, not being a citizen of Malaysia, who was resident in the State on the coming into operation of this Constitution may, on application being made therefor in the prescribed form be registered with the concurrence of the Govern-

ment of the Federation as a citizen of Singapore if he satisfies the Government that he—

(*a*) is of good character;

(*b*) has resided in the State throughout the twelve months immediately preceding the date of his application;

(*c*) has during the twelve years immediately preceding the date of his application resided in the State for periods amounting in the aggregate to not less than ten years;

(*d*) intends to reside permanently in the State; and

(*e*) has an elementary knowledge of the national language:

Provided that the Government may exempt an applicant who has attained the age of forty-five years or who is deaf or dumb from compliance with the provisions of paragraph (*e*) of this clause.

(2) Subject to the provisions of this Constitution any woman, not being a citizen of Malaysia, who is married to a citizen of Singapore may, on making application therefor in the prescribed manner, be registered as a citizen of Singapore if she satisfies the Government—

(*a*) that she has resided continuously in the State for a period of not less than two years immediately preceding the date of the application;

(*b*) that she intends to reside permanently in the State; and

(*c*) that she is of good character.

58. (1) The Government may if satisfied that a child under the age of twenty-one years who is not a citizen of Malaysia— Registration of minors.

(*a*) is the child of a citizen of Singapore; and

(*b*) is residing in the State,

cause such child to be registered as a citizen of Singapore on application being made therefor in the prescribed manner by the parent or guardian of such child.

(2) The Government may, in such special circumstances as it thinks fit, cause any child under the age of twenty-one years, who is not a citizen of Malaysia, to be registered as a citizen of Singapore.

59. Subject to the provisions of Article 60 of this Constitution a person enrolled or registered as a citizen of Singapore under Article 56, 57 or 58 of this Constitution shall be a citizen of Singapore from the date on which he is so enrolled or registered. Effect of enrolment and registration

60. (1) No person shall be registered as a citizen of Singapore under Article 57 of this Constitution until he has taken the oath of allegiance and loyalty in the form prescribed in the Second Schedule to this Constitution. General provisions as to registration.

(2) Except with the approval of the Government of the Federation, no person who has renounced or has been deprived of citizenship of Singapore or of citizenship of the Federation of Malaya or of citizenship of Malaysia under this Constitution or the Singapore Citizenship Ordinance, 1957 or the Federal Constitution or the Federation of

Malaya Agreement 1948, as the case may be, shall be registered as a citizen of Singapore under the provisions of this Constitution.

Deprivation of citizenship.

61. (1) A citizen of Singapore who is a citizen by registration or by naturalization shall cease to be such a citizen if he is deprived of his citizenship by an order of the Government made in accordance with the provisions of this Article.

(2) The Government may, by order, deprive any such citizen of his citizenship if the Government is satisfied that the registration or certificate of naturalization—

(*a*) was obtained by means of fraud, false representation or the concealment of any material fact ; or

(*b*) was effected or granted by mistake.

(3) The Government may, by order, deprive any such citizen of his citizenship if the Government is satisfied that that citizen has, within the period of five years after registration or naturalization, been sentenced in any country to imprisonment for a term of not less than twelve months or to a fine of not less than five thousand dollars or the equivalent in the currency of that country and has not received a free pardon in respect of the offence for which he was so sentenced.

(4) No person shall be deprived of citizenship under this Article unless the Government is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Singapore ; and no person shall be deprived of citizenship under paragraph (*b*) of clause (2) or under clause (3) of this Article if the Government is satisfied that as a result of the deprivation he would not be a citizen of any country.

(5) This Article shall not apply to any person who has been naturalized as a citizen of Singapore under the provisions of the Federal Constitution.

Cancellation of enrolment as citizen.

62. (1) Where a person has been enrolled as a citizen of Singapore under the provisions of Article 56 of this Constitution and the Government is satisfied that the enrolment—

(*a*) was obtained by means of fraud, false representation or the concealment of any material fact ; or

(*b*) was effected by mistake,

the Government may by order cancel the enrolment.

(2) Where under this Article a person's enrolment as a citizen of Singapore is cancelled that shall not discharge him from liability in respect of anything done or omitted before the cancellation, but except as regards anything so done or omitted he shall as provided in the Federal Constitution revert to his former status as a citizen of Malaysia.

Procedure for deprivation.

63. (1) Before making an order under Article 61 or 62 of this Constitution, the Government shall give the person against whom the order is proposed to be made notice in writing informing him of the ground on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry under this Article.

(2) If any person to whom such notice is given applies within such time as may be prescribed to have the case referred to a committee of inquiry, the Government shall, and in any other case may, refer the case to a committee of inquiry consisting of a Chairman, who shall be a person qualified to be appointed as a Judge of the High Court, and two other members appointed by the Government in that behalf.

(3) The committee of inquiry shall, on such reference, hold an inquiry in such manner as may be prescribed and submit a report to the Government and the Government shall have regard to such report in making the order.

Termination of citizenship of Malaysia.

64. Where a person who is a citizen of Singapore has renounced his citizenship of Malaysia or been deprived of his citizenship of Malaysia by the Government of the Federation such person shall be deemed to have renounced or been deprived of his citizenship of Singapore under this Constitution and such person shall cease to be a citizen of Singapore.

Deprivation of citizenship or cancellation of enrolment of child of person losing citizenship.

65. (1) Where a person has been deprived of his citizenship or his enrolment as a citizen has been cancelled under the provisions of this Part of this Constitution, the Government may by order deprive of his citizenship or, as the case may be, cancel the enrolment of any child of that person under the age of twenty-one years who has been registered or enrolled as a citizen under the provisions of this Constitution or the Singapore Citizenship Ordinance, 1957, and was so registered or enrolled as being the child of that person or of that person's wife or husband.

(2) No person shall be deprived of his citizenship under clause (1) of this Article unless the Government is satisfied that it is not conducive to the public good that he should continue to be a citizen; and no person shall be deprived of his citizenship under clause (1) of this Article if the Government is satisfied that as a result of such deprivation he would not be a citizen of any country.

Grant of certificate of citizenship in cases of doubt.

66. Upon application made in that behalf in the prescribed manner the Government may grant in the form prescribed a certificate of citizenship to a person with respect to whose citizenship a doubt exists, whether of fact or of law.

Information to be given to Federal Government.

67. Where under this Constitution a person becomes a citizen of Singapore by registration or is enrolled as a citizen of Singapore or is deprived of his citizenship or a certificate of citizenship is granted to any person under Article 66 of this Constitution the Government shall notify the Government of the Federation of that fact.

Application of Third Schedule.

68. Until the Legislature otherwise provides by law, the supplementary provisions contained in the Third Schedule to this Constitution shall have effect for the purposes of this Part of this Constitution.

Repeal.

69. (1) The Singapore Citizenship Ordinance, 1957, is hereby repealed.

(2) Any person who immediately before the coming into operation of this Constitution, was by virtue of the Singapore Citizenship Ordinance, 1957, a citizen of Singapore by birth, descent, registration or naturalisation, shall as from the coming into operation of this Constitution continue, subject to the provisions of this Constitution, to possess that status.

(3) Where a person would have been a citizen of Singapore by descent immediately before the coming into operation of this Constitution if his birth had been registered under the provisions of the Singapore Citizenship Ordinance, 1957, he shall become a citizen of Singapore by descent if his birth is registered at a consulate of the Federation or with the Government in the prescribed manner within one year of its occurrence or with the permission of the Government later.

(4) Notwithstanding the repeal of the Singapore Citizenship Ordinance, 1957, where a person who has become a citizen of Singapore was liable in respect of things done before the coming into operation of this Constitution to be deprived of that status under the Ordinance, then the Government may, in exercise of the powers delegated by the Government of the Federation, by order deprive him of his citizenship, if proceedings for that purpose are begun before September 1965.

(5) Where a person is liable to be deprived of citizenship under clause (4) of this Article and proceedings had before the coming into operation of this Constitution been begun to deprive him of citizenship of Singapore under the provisions of the Singapore Citizenship Ordinance, 1957, those proceedings shall be treated as proceedings to deprive him of citizenship under that clause and shall be continued as such in accordance with the provisions of the Singapore Citizenship Ordinance, 1957, in force immediately before the coming into operation of this Constitution.

PART IV

THE PUBLIC SERVICE

Interpretation.

70. For the purposes of this Part of this Constitution the expression " public office " shall not include any office the remuneration of the holder of which is calculated on a daily rate.

Public Service Commission.

71. (1) There shall be in and for Singapore a Public Service Commission which shall consist of a Chairman and not less than two and not more than four other members, each of whom shall be appointed by writing under his hand by the Yang di-Pertuan Negara, acting in accordance with the advice of the Prime Minister.

(2) The Chairman shall be a citizen of Malaysia born in Malaya.

(3) There shall be a Deputy Chairman who shall be a person chosen by the members of the Public Service Commission from among their own number.

(4) A person appointed to be a member of the Public Service Commission shall thereafter be ineligible for appointment to any public office.

(5) At any meeting of the Public Service Commission three members who shall include either the Chairman or Deputy Chairman, and may include both of them, shall form a quorum. If the quorum is present, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid notwithstanding that some person not entitled so to do took part therein.

(6) Before assuming the duties of his office, the Chairman and every other member of the Public Service Commission shall take and subscribe before the Chief Justice of Singapore or some other Judge of the High Court the appropriate Oath for the due execution of his office in the form set out in the First Schedule to this Constitution.

Disqualification for appointment to the Commission

72. A person shall not be appointed to be a member of the Public Service Commission if he is, and shall cease to be a member if he becomes—

(*a*) a public officer;

(*b*) a member of, or in the employment of, any corporation incorporated directly by the provisions of any law for the time being in force in the State;

(*c*) a Member of either House of Parliament or of the Legislative Assembly or a duly nominated candidate for election as such Member;

(*d*) a member of any trade union or of any body or association affiliated to a trade union; or

(*e*) the holder of any office in any political association.

Tenure of office.

73. (1) Subject to the provisions of Article 72 of this Constitution every member of the Public Service Commission shall, unless he earlier resigns his office by writing under his hand addressed to the Yang di-Pertuan Negara or is removed therefrom under this Article, hold office for a period of five years from the date of his appointment, but shall be eligible for re-appointment.

(2) If the Prime Minister, or the Chairman of the Public Service Commission after consulting with the Prime Minister, represents to the Yang di-Pertuan Negara that a Member of the Public Service Commission ought to be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, the Yang di-Pertuan Negara shall refer that representation to a tribunal consisting of the Chief Justice of Singapore and two other Judges of the High Court

nominated for that purpose by the Chief Justice of Singapore and shall, if that tribunal so recommends, remove that member from office by writing under his hand.

(3) The tribunal constituted under the preceding clause shall regulate its own procedure and may make rules for that purpose.

Terms of service of Chairman and members of the Commission.

74. (1) The Chairman and other members of the Public Service Commission shall be paid such salary and allowances as may from time to time be determined, and such salary and allowances shall be charged on and paid out of the Consolidated Fund.

(2) Subject to the provisions of this Constitution, the terms of service of the members of the Public Service Commission may either—

(*a*) be prescribed by or under any law made under this Constitution; or

(*b*) (in so far as they are not prescribed by or under any such law) be prescribed by the Yang di-Pertuan Negara.

(3) The terms of service of any member of the Public Service Commission shall not be altered to his disadvantage during his continuance in office.

(4) For the purposes of the preceding clause, in so far as the terms of service of a member of the Public Service Commission depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.

Appointment etc. of public officers.

75. (1) Subject to the provisions of this Constitution and the Federal Constitution it shall be the duty of the Public Service Commission to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over public officers.

(2) In clause (1) of this Article—

" appoint " does not include an appointment to act in an office for two months or less;

" transfer " does not include transfer without a change of rank within a department of Government.

(3) The promotion of public officers shall be on the basis of official qualifications, experience and merit.

Protection of pension rights.

76. (1) The law applicable to any pension, gratuity or other like allowance (in this Article referred to as an " award ") granted to any public officer or to his widow, children, dependant or personal representatives shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this Article the relevant day is—

(*a*) in relation to an award made before Malaysia Day, the date on which the award was made;

(*b*) in relation to an award made after Malaysia Day to or in respect of any person who was a public officer before that day, the day immediately before that day;

(c) in relation to an award made to or in respect of any person who first became a public officer on or after Malaysia Day, the date on which he first became a public officer.

(3) For the purposes of this Article, where the law applicable to an award depends on the option of the person to whom it is made, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

Power of Public Service Commission in relation to pensions, etc.

77. (1) Where under any law any person or authority has a discretion—

(a) to decide whether or not any award shall be made; or

(b) to withhold, reduce in amount or suspend any such award that has been made,

that award shall be made and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the award or, as the case may be, in the decision to withhold it, reduce it in amount or suspend it.

(2) Where the amount of any award that may be made to any person is not fixed by law, the amount of the award to be made to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in the making of an award of a smaller amount.

(3) In this Article "award" has the same meaning as in Article 76 of this Constitution.

Pensions etc., to be charged on the Consolidated Fund.

78. Pensions, gratuities and other like allowances granted in respect of the public service shall be charged on and paid out of the Consolidated Fund.

Pension rights on transfer.

79. (1) Notwithstanding any provision of this Constitution relating to the circumstances in which a public officer may vacate his office, any public officer may, with the consent of the Government (which consent shall not be unreasonably withheld), relinquish his office for the the purpose of transfer to some other public office or to an office in any other public service, and if he so relinquishes his office, his claim to any pension, gratuity or other like allowance shall not thereby be prejudiced.

(2) For the purposes of this Article, the expression "other public service" has the meaning given to it by the Pensions Ordinance, 1956, as in force immediately before the date of the coming into operation of this Constitution. Ord. 22 of 1956.

Regulations regarding Commission.

80. (1) Subject to the provisions of any State law, the Yang di-Pertuan Negara may make regulations for all or any of the following matters, that is to say—

(a) the division of public offices into Divisions and Services;

(b) the prescribing of Schemes regulating the recruitment, service and promotion of members of such Services; and

(c) the conduct and discipline of the public service.

(2) The Public Service Commission may, subject to the provisions of this Constitution, regulate its procedure and make rules for that purpose, and may, in connection with the discharge of its functions, confer powers and impose duties on any public officer or any authority of the Government.

(3) The Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate to any public officer or to any board of public officers appointed by it, any of its functions under clause (1) of Article 75 of this Constitution in respect of any grade of the public service and that officer or board shall exercise those functions under the direction and control of the Public Service Commission.

Performance by Public Service Commission of other functions.

81. The Legislature may by law provide for the exercise of other functions by the Public Service Commission.

PART V

FINANCIAL PROVISIONS

No taxation unless authorized by law.

82. No tax or rate shall be levied by or for the purposes of the State except by or under the authority of law.

The Consolidated Fund.

83. There shall be in and for the State a Consolidated Fund into which, subject to the provisions of any law for the time being in force in the State, shall be paid all revenues of the State not allocated to specific purposes.

Estimates.

84. (1) The Minister responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure for public services of the State during the succeeding financial year which, when approved by the Cabinet, shall be laid before the Legislative Assembly.

(2) The estimates of expenditure shall show separately—

(*a*) the total sums required to meet expenditure charged in the Consolidated Fund; and

(*b*) subject to clause (3) of this Article the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.

(3) The estimates of revenue to be shown in the estimates shall not include any sums received by way of Zakat, Fitrah and Bait-ul-Mal or similar Muslim revenue; and the sums to be shown under paragraph (*b*) of clause (2) of this Article shall not include—

(*a*) sums representing the proceeds of any loan raised by the State for specific purposes and appropriated for those purposes by the law authorizing the raising of the loan;

(*b*) sums representing any money or interest on money received by the State subject to a trust and to be applied in accordance with the terms of the trust;

(*c*) sums representing any money held by the State which has been received or appropriated for the purpose of any trust fund established by or in accordance with State law.

(4) The Minister responsible for finance shall also lay before the Legislative Assembly together with the estimates of expenditure, a statement showing as far as is practicable the assets and liabilities of the State at the end of the last completed financial year, the manner in which those assets are invested or held and the general heads in respect of which those liabilities are outstanding.

85. (1) The heads of expenditure to be met from the Consolidated Fund other than statutory expenditure and other than expenditure to be met by such sums as are mentioned in clause (3) of Article 84 of this Constitution shall be included in a Bill to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

Authorization of expenditure.

(2) Whenever—

(*a*) any moneys are expended or are likely to be expended in any financial year upon any service which are in excess of the sum provided for that service by the Supply law relating to that year, or

(*b*) any moneys are expended or are likely to be expended (otherwise than by way of statutory expenditure) in any financial year upon any new service not provided for by the Supply law relating to that year,

supplementary estimates (or, as the case may be, statements of excess) shall be prepared by the Minister responsible for finance and, when approved by the Cabinet, shall be laid before and voted on by the Legislative Assembly; in respect of all supplementary expenditure so voted the Minister responsible for finance may, at any time before the end of the financial year, introduce into the Legislative Assembly a Supplementary Supply Bill containing, under appropriate heads, the estimated sums so voted and shall, as soon as possible after the end of each financial year, introduce into the Legislative Assembly a Final Supply Bill containing any such sums which have not yet been included in any Supply Bill.

(3) That part of any estimate of expenditure laid before the Legislative Assembly which shows statutory expenditure shall not be voted on by the Legislative Assembly, and such expenditure shall, without further authority of the Legislative Assembly, be paid out of the Consolidated Fund.

(4) For the purposes of this Article and the preceding Article statutory expenditure means expenditure charged on the Consolidated Fund or on the general revenues and assets of Singapore by virtue of the provisions of clause (3) of Article 4, clause (8) of Article 19, Article 25, clause (3) of Article 26, clause (1) of Article 74, Article 78 and Article 88 of this Constitution or by virtue of the provisions of any other law for the time being in force in Singapore.

86. (1) Subject to the following provisions of this Article, no moneys shall be withdrawn from the Consolidated Fund unless they are—

Meeting expenditure from the Consolidated Fund.

(*a*) charged on the Consolidated Fund; or

(*b*) authorised to be issued by a Supply or Supplementary Supply law.

(2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by Federal law.

(3) Clause (1) of this Article shall not apply to any such sums as are mentioned in clause (3) of Article 84 of this Constitution.

(4) The Legislative Assembly may, by resolution approving estimates containing a vote on account, authorise expenditure for part of any year before the passing of the Supply law for that year, but the aggregate sums so voted shall be included, under the appropriate heads, in the Supply Bill for that year.

(5) If a Supply Bill has not become law by the first day of the financial year to which it relates, the Minister responsible for finance may, with the prior approval of the Cabinet, authorise such expenditure (not otherwise authorised by law) from the Consolidated Fund or other Government funds as he may consider essential for the continuance of the public services shown in the estimates until the Supply Bill becomes law:

Provided that the expenditure so authorised for any service shall not exceed one-quarter of the amount voted for that service in the Supply law for the preceding year.

Contingencies Fund.

87. (1) The Legislature may by law create a Contingencies Fund and authorise the Minister responsible for finance to make advances from that Fund if he is satisfied that there is an urgent and unforeseen need for expenditure for which no provision or no sufficient provision has been made by a Supply law.

(2) Where any advance is made by virtue of the authority conferred under the preceding clause, a supplementary estimate of the sum required to replace the amount so advanced shall as soon as practicable be laid before and voted on by the Legislative Assembly and the sum so voted shall be included in a Supplementary Supply Bill or a Final Supply Bill.

Debt charges and moneys required to satisfy judgments.

88. (1) The following are hereby charged on the Consolidated Fund—

(*a*) all debt charges for which the State is liable; and

(*b*) any moneys required to satisfy any judgment, decision or award against the State by any court or tribunal.

(2) For the purposes of this Article debt charges include interest, sinking fund charges, repayment or amortisation of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Part VI

GENERAL PROVISIONS

Minorities and special position of the Malays.

89. (1) It shall be the responsibility of the Government constantly to care for the interests of the racial and religious minorities in the State.

(2) The Government shall exercise its functions in such manner as to recognise the special position of the Malays, who are the indigenous people of the State, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language.

90. (1) Subject to the provisions of the Federal Constitution and to the following provisions of this Article, the provisions of this Constitution may be amended by a law enacted by the Legislature. Amendment of Constitution.

(2) A Bill for making an amendment to this Constitution (other than an amendment excepted from the provisions of this clause) shall not be passed by the Legislative Assembly unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members thereof.

(3) The following amendments are excepted from the provisions of clause (2) of this Article, that is to say—

(*a*) any amendment consequential on such a law as is mentioned in Article 23 of this Constitution;

(*b*) any amendment the effect of which is to bring the Constitution of the State into accord with any of the essential provisions contained in the Eighth Schedule to the Federal Constitution.

(4) In this Article "amendment" includes addition and repeal.

91. (1) In this Constitution unless it is otherwise provided or the context otherwise requires— Interpretation.

"Cabinet" means the Cabinet constituted under this Constitution;

"Civil List" means the provision made under Article 4 of this Constitution for the maintenance of the Yang di-Pertuan Negara;

"citizen of Singapore" means any person who, under the provisions of this Constitution, has the status of a citizen of Singapore;

"citizen of Malaysia" means any person who under the provisions of the Federal Constitution has the status of a citizen of the Federation of Malaysia;

"Conference of Rulers" means the Conference of Rulers constituted by the Federal Constitution;

"Consolidated Fund" means the Consolidated Fund established by this Constitution;

"existing law" means any law having effect as part of the law of the State immediately before the coming into operation of this Constitution;

"Federal Constitution" means the Constitution of the Federation and includes the Malaysia Act 1963;

" Federal law " means—

(a) any existing law continuing to have effect as part of the law of the State after the coming into operation of this Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a Federal law ; and

(b) any Act of Parliament, or other law of the Federation relating to matters about which Parliament has power to make laws, which extend to the State.

" Federation " means the Federation to be known on and after Malaysia Day by the name " Malaysia " ;

" Government " means the Government of the State of Singapore ;

" High Court " means the High Court in Singapore constituted by the Federal Constitution ;

" law " includes written law and any legislation of the United Kingdom or other enactment or instrument whatsoever which is in operation in the State and the common law in so far as it is in operation in the State and any custom or usage having the force of law in the State ;

" Legislative Assembly " means the Legislative Assembly constituted under this Constitution ;

" Legislature " means the Legislature of the State ;

" Malaya " means Singapore and the Malay Peninsula ;

" Malaysia Day " means the 31st August, 1963 ;

" Minister " means a Minister appointed under this Constitution ;

" office of profit " has the same meaning as in the Federal Constitution ;

" Parliament " means the Parliament of the Federation ;

" Prime Minister " means the Prime Minister of Singapore appointed under the provisions of this Constitution ;

" public office " means, subject to the provisions of clause (5) of this Article, an office of emolument in the public service ;

" public officer " means the holder of any public office ;

" the public seal " means the public seal of the State ;

" public service " means service under the Government ;

" Public Service Commission " means the Public Service Commission constituted under this Constitution ;

" register of electors " means the register of electors prepared under the provisions of any written law for the time being in force relating to election ;

" remuneration " in respect of any public officer means only the emoluments of that officer, the whole or any part of which count for pension in accordance with the provisions of any law relating to the grant of pensions in respect of the public service ;

"session" means the sittings of the Legislative Assembly commencing when it first meets after being constituted, or after its prorogation or dissolution at any time, and terminating when the Legislative Assembly is prorogued or is dissolved without having been prorogued;

"Singapore" means the State of Singapore;

"sitting" means a period during which the Legislative Assembly is sitting continuously without adjournment, including any period during which the Legislative Assembly is in committee;

"Speaker" and "Deputy Speaker" mean, respectively, the Speaker and Deputy Speaker of the Legislative Assembly;

"State" means the State of Singapore;

"State law" means—

(*a*) any existing law continuing to have effect as part of the law of the State after the coming into operation of this Constitution to the extent that it is by virtue of the provisions of the Federal Constitution treated as a State law; and

(*b*) any law made by the Legislature.

"terms of service" in respect of any officer include the remuneration to which that officer is entitled by virtue of his office, and any pension, gratuity or other like allowance payable to or in respect of that officer;

"written law" means this Constitution and the Federal Constitution and all Federal and State laws and subsidiary legislation for the time being in force in the State and includes rules and regulations made under the Singapore (Constitution) Order in Council, 1958, so long as they are in force in the State;

"Yang di-Pertuan Agong" means the Yang di-Pertuan Agong or Supreme Head of the Federation and includes the Deputy Supreme Head of the Federation;

"Yang di-Pertuan Negara" means the Yang di-Pertuan Negara of Singapore and includes any person for the time being appointed to perform the functions of the Yang di-Pertuan Negara;

(2) Save where this Constitution otherwise provides or where the context otherwise requires—

(*a*) the person or authority having power to make substantive appointments to any public office may appoint a person to perform the functions of that office during any period during which it is vacant or during which the holder thereof is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions;

(*b*) every appointment to perform the functions of an office made under the preceding paragraph shall be made in the same manner as and subject to the same conditions as apply to a substantive appointment to that office ;

(*c*) any reference in this Constitution to the holder of any office by the term designating his office shall be construed as including a reference to any person for the time being lawfully performing the functions of that office ;

(*d*) any reference in this Constitution to an appointment to any office shall be construed as including a reference to an appointment to perform the functions of that office.

(3) Where in this Constitution power is conferred on any person or authority to appoint a person to perform the functions of any office if the holder thereof is unable himself to perform its functions, any such appointment shall not be called in question on the ground that the holder of that office was not unable to perform those functions.

(4) For the purposes of this Constitution, the resignation of a member of any body or the holder of any office constituted by this Constitution that is required to be addressed to any person shall be deemed to have effect from the time that it is received by that person :

Provided that, in the case of a resignation that is required to be addressed to the Speaker, the resignation shall, if the office of Speaker is vacant or the Speaker is absent from the State, be deemed to have effect from the time that it is received by the Deputy Speaker on behalf of the Speaker.

(5) For the purposes of this Constitution a person shall not be considered as holding a public office by reason of the fact that he is in receipt of any remuneration or allowances (including a pension or other like allowance) in respect of his tenure of the office of Prime Minister, Speaker, Deputy Speaker, Minister, Parliamentary Secretary, Political Secretary or Member of the Legislative Assembly.

(6) (*a*) Without prejudice to the provisions of clause (2) of this Article, when the holder of any public office is on leave of absence pending relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto.

(*b*) Where two or more persons are holding the same office by reason of an appointment made pursuant to the preceding paragraph, the person last appointed shall, in respect of any function conferred on the holder of that office, be deemed to be the sole holder of that office.

(7) Where a person is required by the Constitution to take an oath, he shall be permitted, if he so desires, to comply with that requirement by making an affirmation.

(8) References in this Constitution to any period shall, so far as the context admits be construed as including references to a period beginning before the date of the coming into operation of this Constitution.

(9) Subject to the provisions of this Article, the Interpretation and General Clauses Ordinance, as in force immediately before the date of the coming into operation of this Constitution, shall apply for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to any written law within the meaning of that Ordinance. Cap. 2 (1955 Edition).

92. Subject to the provisions of this Constitution, all persons of whatever race in the same grade of the service of the State shall, subject to the terms and conditions of their employment, be treated impartially. Impartial treatment of State employees.

93. The Yang di-Pertuan Negara may from time to time authorise the Government Printer to print copies of this Constitution including all amendments in force at the date of such authorisation; and any such copy so printed shall be deemed for all purposes to be a true and correct copy. Authorised reprints of the constitution.

94. Subject to the provisions of Part VII of this Constitution, this Constitution shall come into operation immediately before Malaysia Day. Date of coming into operation.

PART VII

TEMPORARY AND TRANSITIONAL PROVISIONS

95. (1) The person holding the office of Yang di-Pertuan Negara on the coming into operation of this Constitution shall continue to hold the office and to carry out the functions of the Yang di-Pertuan Negara under this Constitution, as if appointed under this Constitution for a term of years expiring on the 3rd of December 1963. Yang di-Pertuan Negara.

(2) The person holding the office of Yang di-Pertuan Negara shall before exercising the functions of the Yang di-Pertuan Negara under this Constitution take and subscribe in the presence of the Chief Justice of Singapore or a Judge of the High Court the oath in the form set out in the First Schedule to this Constitution.

96. (1) The Legislative Assembly established by the Singapore (Constitution) Order in Council, 1958, shall remain in being and shall be deemed to be the Legislative Assembly established by this Constitution, and accordingly— Legislative Assembly.

(*a*) the persons who immediately before the coming into operation of this Constitution hold the offices of Speaker and Deputy Speaker or Members of the Legislative Assembly shall, on the coming into operation of this Constitution, continue to hold those offices or their seats as Members in accordance with the provisions of this Constitution; and

(*b*) the Legislative Assembly shall, unless sooner dissolved, stand dissolved on the expiration of five years from the date of the first sitting of the Legislative Assembly under the Singapore (Constitution) Order in Council, 1958.

(2) The Speaker shall not exercise the functions of his office and no member of the Legislative Assembly shall take part in the proceedings thereof after the coming into operation of this Constitution (other than proceedings necessary for the purposes of this clause) until he has taken and subscribed before the Legislative Assembly an oath of allegiance in the form set out in the First Schedule to this Constitution.

Existing Standing Order.

97. The Standing Orders of the Legislative Assembly established by the Singapore (Constitution) Order in Council, 1958, which are in force immediately before the coming into operation of this Constitution shall, subject to amendment or revocation under Article 36 of the Constitution, be the Standing Orders of the Legislative Assembly established by this Constitution, but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of this Constitution.

The Cabinet.

98. (1) The Cabinet established by the Singapore (Constitution) Order in Council, 1958, shall remain in being and shall be deemed to be the Cabinet established by this Constitution, and accordingly the persons who immediately before the coming into operation of this Constitution hold the office of Prime Minister and other Ministers shall on the coming into operation of this Constitution continue to hold those offices in accordance with the provisions of this Constitution.

(2) Any person who continues to hold the office of Prime Minister or other Minister as from the coming into operation of this Constitution by virtue of clause (1) of this Article shall, before entering on the duties of his office after the coming into operation of this Constitution, take and subscribe before the Yang di-Pertuan Negara an oath of allegiance in the form set out in the First Schedule to the Constitution.

The Public Service Commission.

99. The persons who, immediately before the coming into operation of this Constitution, were the Chairman and other members of the Public Service Commission established by the Singapore (Constitution) Order in Council, 1958, shall on the coming into operation of this Constitution be deemed to have been appointed as Chairman and members of the Commission under Article 71 of this Constitution and shall hold their offices in accordance with the provisions of this Constitution and in relation to any such person, the reference in Clause (1) of Article 73 of this Constitution to the date of his appointment shall be construed as a reference to the date of his appointment to the Public Service Commission established by the Singapore (Constitution) Order in Council, 1958.

Public officers to continue in office.

100. Subject to the provisions of this Constitution and the Federal Constitution, every person who immediately before the coming into operation of this Constitution holds a public office shall on its coming into operation continue to hold the like office in the public service.

101. (1) Save where other provision is made by this Constitution, any person who, under the provisions of this Part of this Constitution, holds any office as from the coming into operation of this Constitution by virtue of having been the holder of any office immediately before its coming into operation shall, as from its enquiry into operation, be entitled to the same terms of service as were applicable to him immediately before its coming into operation, and those terms, in so far as they relate to remuneration, shall not be altered to his disadvantage during his continuance in the public service thereafter. Terms of service of persons who continue in office.

(2) For the purposes of this Article, in so far as the terms of service of any person depend upon his option, any terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.

102. (1) Where on Malaysia Day or any day thereafter any post in the public service becomes a post in the general public service or the judicial and legal service of the Federation any person serving in that post immediately before that day shall on that day be seconded to the general public service or the judicial and legal service of the Federation, as the case may be. Secondment of members of the public service to Federal service.

(2) Clause (1) of this Article shall not apply to persons in such grades of service as the Yang di-Pertuan Negara may, with the consent of the Yang di-Pertuan Agong, direct.

(3) The power conferred by clause (2) of this Article may be exercised at any time after the publication of this Constitution in the Gazette.

103. (1) Subject to the provisions of this Article, all property and assets which immediately before the coming into operation of this Constitution were vested in Her Majesty for the purposes of the State shall on its coming into operation vest in the State. Succession to property.

(2) Subject to the provisions of the Federal Constitution any land in the State which immediately before the coming into operation of this Constitution was vested in Her Majesty shall on its coming into operation vest in the State.

(3) Any property which was immediately before the coming into operation of this Constitution liable to escheat to Her Majesty in respect of the Government shall on its coming into operation be liable to escheat to the State.

104. (1) All rights, liabilities and obligations of Her Majesty in respect of the Government shall on and after the coming into operation of this Constitution be rights, liabilities and obligations of the State. Rights, liabilities and obligations.

(2) In this Article, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights to which Article 103 of this Constitution applies.

Existing laws.

105. (1) Subject to the provisions of this Article and to any provision made on or after Malaysia Day by or under Federal law or State law, all existing laws shall continue in force on and after the coming into operation of this Constitution and all laws which have not been brought into force by the coming into operation of this Constitution may, subject as aforesaid, be brought into force on or after its coming into operation, but all such laws shall, subject to the provisions of this Article, be construed as from the coming into operation of this Constitution with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution and the Malaysia Act, 1963.

(2) (*a*) The Yang di-Pertuan Negara may, by order made at any time before the 31st August, 1965, and published in the Gazette, make such modifications in any existing law to the extent that it is by virtue of the provisions of the Federal Constitution treated as a State law as appear to him to be necessary or expedient in consequence of the promulgation of this Constitution or the passing of the Malaysia Act, 1963.

(*b*) Any order made under this clause may be amended or repealed by a further order so made.

(*c*) An Order made under this clause shall have effect from such date, not being earlier than the date of the coming into operation of this Constitution, as may be specified therein.

(*d*) An Order made under this clause shall be presented to the Legislative Assembly as soon as may be after it is made.

(3) In clause (2) of this Article " modification " includes amendment, adaptation and repeal.

(4) In this Article, " existing law " includes the Retirement from the Public Service (Compensation) Ordinance, 1956, as modified by subsection (1) of Section 118 of the Singapore (Constitution) Order in Council, 1958.

THE SCHEDULES

First Schedule

Forms of Oaths and Affirmations

1. *Oath of office of Yang di-Pertuan Negara*

I, ..., having been appointed Yang di-Pertuan Negara of the State of Singapore, do solemnly swear that I will faithfully discharge my duties as such to the best of my ability, and that I will bear true faith and allegiance to the State of Singapore and to the Federation of Malaysia, and that I will preserve, protect and defend the Constitution of the State of Singapore. So help me God.

2. *Oath of Allegiance*

I, ..., having been appointed to the office of ...., do solemnly swear that I will bear true faith and allegiance to the State of Singapore and to the Federation of Malaysia, and that I will preserve, protect and defend the Constitution of the State of Singapore. So help me God.

3. *Oath as Member of the Legislative Assembly*

I, ..., having been elected as a member of the Legislative Assembly of the State of Singapore, do solemnly swear that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to the State of Singapore and to the Federation of Malaysia, and that I will preserve, protect and defend the Constitution of the State of Singapore. So help me God.

4. *Oath for due execution of office of Prime Minister of other Minister or Parliamentary Secretary*

I, ..., being chosen and appointed Prime Minister/Minister/Parliamentary Secretary of the State of Singapore do swear that I will to the best of my judgment at all times when so required freely give my counsel and advice to the Yang di-Pertuan Negara (or any person for the time being lawfully performing the functions of that office) for the good management of the public affairs of the State of Singapore, and I do further swear that I will not on any account, at any time whatsoever, disclose the counsel, advice, opinion or vote of any particular Minister or Parliamentary Secretary and that I will not, except with the authority of the Cabinet and to such extent as may be required for the good management of the affairs of the State of Singapore, directly or indirectly reveal the business or proceedings of the Cabinet or the nature or contents of any document communicated to me as a Minister/Parliamentary Secretary or any matter coming to my knowledge in my capacity as such and that in all things I will be a true and faithful Prime Minister/Minister/Parliamentary Secretary. So help me God.

5. *Oath for the due execution of the office of Chairman or other member of the Public Service Commission*

I, ..., having been appointed to be Chairman/a Member of the Public Service Commission do swear that I will freely and without fear or favour, affection or ill-will, give my counsel and advice in connection with all matters that may be referred to the Public Service Commission and that I will not directly or indirectly reveal any such matters to any unauthorised person or otherwise than in the course of duty. So help me God.

Second Schedule

Oath of Allegiance and Loyalty

I, ..., do swear that I will be faithful and bear true allegiance to His Majesty the Yang di-Pertuan Agong and to His Excellency the Yang di-Pertuan Negara and that I will observe the laws and be a true, loyal and faithful citizen of Singapore. So help me God.

Third Schedule

1. The functions of the Government under Part III of the Constitution shall be exercised by such Minister as the Yang di-Pertuan Negara may from time to time direct and references in this Schedule to the Minister shall be construed accordingly.

2. A decision of the Government under Part III of the Constitution shall not be subject to appeal or review in any court.

3. The Minister may delegate to any public officer of the Government any of his functions under Part III of the Constitution or this Schedule relating to citizenship by registration and enrolment and the keeping

of registers and, in relation to orders under Article 61 or Article 62 of the Constitution any of his functions under Article 63 of the Constitution prior to determining whether to make such an order; but any person aggrieved by the decision of a person to whom the functions of the Minister are so delegated may appeal to the Minister.

4. The Minister may make rules and prescribe forms for the purpose of the exercise of his functions under Part III of the Constitution and of this Schedule.

5. The power of the Government under Articles 55 and 69 of the Constitution to allow a longer period for the registration of a birth may be exercised either before or after the registration has been effected.

6. Any notice to be given by the Minister to any person under clause (1) of Article 63 of the Constitution may be sent to that person at his last known address or, in the case of a person under the age of twenty-one years (not being a married woman) to his parent or guardian at the last known address of the parent or guardian; and if an address at which the notice may be sent to any person under this paragraph is not known and cannot after reasonable inquiry be ascertained, the notice may be given by publication in the Gazette.

7. It shall be the duty of the Minister to compile and maintain—

(*a*) a register of citizens of Singapore by registration;

(*b*) a register of citizens of Singapore by naturalization whether under the provisions of the Singapore Citizenship Ordinance or the Federal Constitution;

(*c*) a register of persons to whom certificates of citizenship of Singapore have been issued under Article 66 of the Constitution, or under Article 39 of the Federal Constitution;

(*d*) a register of persons who have been deprived or deemed to have been deprived of citizenship under any provision of Part III of the Constitution;

(*e*) a register of citizens of Singapore who have renounced citizenship under the provisions of the Singapore Citizenship Ordinance, 1957, or the Federal Constitution;

(*f*) a register of persons enrolled under the provisions of the Constitution;

(*g*) a register of persons whose enrolment has been cancelled under the provisions of the Constitution;

(*h*) an alphabetical index of all persons referred to in the preceding paragraphs of this section.

8. If the Minister has reason to believe that an error appears in any register compiled under section 7 of this Schedule he shall after giving notice to the persons concerned and after considering such representations from him as he may choose to make, make such alteration on the register as appears to the Minister to be necessary to correct the error.

9. Subject to section 8 of this Schedule, the said register shall be conclusive evidence of the matters therein contained.

10.—(1) It shall be an offence punishable with imprisonment for two years or a fine of one thousand dollars or both for any person—

(*a*) knowingly to make any false statement with a view to inducing the Minister to grant or refuse any application under Part III of the Constitution;

(*b*) to forge or without lawful authority, alter any certificate or without any lawful authority use or have in his possession any certificate which has been so forged or altered;

(*c*) to fail to comply with any requirement imposed upon him by any rules made under section 4 of this Schedule with respect to the delivering up of certificates;

(*d*) to personate or falsely represent himself to be or not to be a person to whom a certificate has been duly issued.

(2) In this section certificate means—

(*a*) any certificate of enrolment or registration as a citizen granted under Article 56, 57 or 58 of the Constitution;

(*b*) any certificate of registration of birth granted under Article 55 or 69 of the Constitution;

(*c*) any certificate of registration or naturalization granted under the provisions of the Singapore Citizenship Ordinance, 1957;

(*d*) any certificate of citizenship issued under the Singapore Citizenship Ordinance or Article 66 of the Constitution.

Persons born on ships or aircraft.

11. For the purposes of Part III of the Constitution, a person born on board a registered ship or aircraft, or on board an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

Posthumous persons.

12. Any reference in Part III of the Constitution to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the death of the father; and where that death occurred before and the birth occurs on or after the date of the coming into operation of the Constitution the status or description which would have been applicable to the father had he died after the date of such coming into operation shall be deemed to be the status or description applicable to him at the time of his death.

Foundlings.

13. Any new born child found exposed in the State of unknown and unascertainable parentage, shall until the contrary is proved, be deemed to be a citizen of Singapore by birth; and the date of finding shall be taken to be the date of birth of such child.

Citizenship at birth.

14. For the purposes of Part III of the Constitution, a person is to be treated as having at birth any citizenship which he acquires within one year afterwards by virtue of any provision corresponding to the proviso to clause (1) of Article 55 of the Constitution or otherwise.

Illegitimate children and adopted children.

15.—(1) For the purposes of Part III of the Constitution, references to a person's father or to his parent or to one of his parents shall in relation to a person who is illegitimate be construed as references to his mother and accordingly section 12 of this Schedule shall not apply to such a person.

(2) In relation to an adopted child who has been adopted by an order of a court in accordance with the provisions of any law in force in the State or in any other part of the Federation or whose adoption has been registered under any written law in force in the Federation, references to a person's father or to his parent or to one of his parents shall be construed as references to the adopter.

Permanent residence.

16.—(1) For the purposes of paragraph (*c*) of clause (2) of Article 54 of the Constitution a person shall be treated as having been at any time a permanent resident in the Federation, if, but only if, he was then resident in the Federation and either—

(*a*) he then had permission, granted without limit of time under any Federal law, to reside there; or

(*b*) it is certified by the Government of the Federation that he is to be treated for the purposes of the said paragraph (*c*) of

clause (2) of Article 54 of the Constitution as a permanent resident in the Federation.

(2) A certificate of the Government of the Federation that a person is or was excluded from the application of paragraph (*c*) of clause (2) of Article 54 of the Constitution by the proviso to that clause shall be conclusive evidence of the matter certified.

Periods of absence to be treated as periods of residence.

17. In calculating for the purposes of Part III of the Constitution a period of residence in the State—

(*a*) a period of absence from the State of less than six months in the aggregate; and

(*b*) a period of absence from the State exceeding six months in the aggregate for any cause generally or specially approved by the Government; and

(*c*) a period of absence from the State while the person is in any part of the Federation,

may be treated as residence in the State and a person shall be deemed to be resident in the State on a particular day if he had been resident in the State before that day and that day is included in any such period of absence as aforesaid.

Certain period of residence not to be taken into account.

18. In calculating for the purposes of Part III of the Constitution any period of residence in the State no account shall be taken—

(*a*) of any period of residence in the State whilst a person was or was the member of the family of—

(i) a person recruited outside the Federation serving on full pay in any naval, military or air force other than the naval, military or air force of the Federation;

(ii) a person recruited outside the Federation serving in a civil capacity in any department of any Government operating in the State other than a department of the Government or of the Government of the Federation; or

(*b*) of any period during which a person was not lawfully resident in the State;

(*c*) of any period spent as an inmate of any prison or as a person detained in lawful custody in any other place other than a mental hospital or opium treatment centre under the provisions of any written law of the State;

(*d*) save with the consent of the Minister, of any period during which a person is allowed to remain temporarily in the State under the authority of any Pass issued under the provisions of any written law of the State or of any other part of the Federation relating to immigration.

Discretion of the Minister.

19.—(1) The Minister shall not be required to assign any reason for the grant or refusal of any application under Part III of the Constitution the decision on which is at his discretion and the decision of the Minister on any such application shall be final.

(2) Before refusing such an application the Minister shall refer the case to an advisory committee consisting of three persons appointed for the purpose, either generally or specially, by the Yang di-Pertuan Negara and in making his decision shall have regard to any report made to him by the advisory committee.

ANNEX E

IMMIGRATION BILL

TABLE OF CONTENTS

PART I

GENERAL

PART II

SPECIAL PROVISIONS FOR THE BORNEO STATES

PART III

SUPPLEMENTARY

[1] Not reproduced.

DRAFT

A BILL

intituled

An Act to extend and adapt the Immigration Ordinance, 1959, for Malaysia, and to make additional provision with respect to entry into the States of Sabah and Sarawak.

[ ]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

PART I

GENERAL

Short title and construction.

1. This Act may be cited as the Immigration Act, 1963, and shall be construed as one with the Immigration Ordinance, 1959.

Commencement.

2. Save as otherwise provided by this Act, this Act shall come into operation on Malaysia Day that is to say, the 31st day of August, 1963.

General extension and adaptation of federal Ordinance, and repeal of State laws.

3. (1) Subject to the provisions of this Act, the Immigration Ordinance, 1959, shall extend throughout Malaysia (and references therein to the Federation shall be construed accordingly), and the following immigration laws of the States of Sabah, Sarawak and Singapore shall cease to have effect, that is to say,

(*a*) in Sabah, the Immigration Ordinance, 1962 (No. 1 of 1962);

(*b*) in Sarawak, the Immigration Ordinance (Cap. 15);

(*c*) in Singapore, the Immigration Ordinance (Cap. 102).

(2) In the Immigration Ordinance, 1959, there shall be made the amendments provided for by the Schedule.

(3) Parts II and III of the Delegation of Powers Ordinance, 1956, so far as relevant for the purposes of the Immigration Ordinance, 1959, shall for those purposes extend to the States of Sabah, Sarawak and Singapore, whether or not so extended for any other purpose.

PART II

SPECIAL PROVISIONS FOR THE BORNEO STATES

Application of immigration law to each Borneo State as separate unit.

4. (1) Without prejudice to the general operation of the Immigration Ordinance, 1959 (in the Borneo States as in other parts of the Federation) as a general law for the Federation as a whole, that Ordinance shall also have effect, subject to and in accordance with this Part of this Act, as a special law for each of those States as if for any reference to the Federation (except in a reference to a Government in the Federation or to a citizen of the Federation) there were substituted a reference to the Borneo State.

(2) Regulations under section 54 of the Immigration Ordinance, 1959, and orders under section 55 (exemptions) of that Ordinance, may make special provision as regards a Borneo State for the purposes of the Ordinance as a special law for that State; and no such regulations shall be made or have effect so as to prejudice the powers conferred by this Part on the authorities of the State.

(3) If in a Borneo State there is no Controller, there shall be a Deputy Controller having all such authority to exercise the powers and discretions vested in the Controller by the Immigration Ordinance, 1959, and discharge the duties required to be discharged by him, as may be necessary for the purpose of giving effect to that Ordinance as a special law for the State.

(4) In the operation of the Immigration Ordinance, 1959, as a special law for a Borneo State, it shall have effect subject to the following modifications:—

(*a*) section 9 (which confers on the Minister a general power to limit entry into the Federation) and section 46 (which relates to repatriation) shall not apply; and

(*b*) references to a Permit or Pass shall mean a Permit or Pass to enter the Borneo State.

(5) Notwithstanding anything in the foregoing provisions of this section, the powers and discretions vested in the Controller by the Immigration Ordinance, 1959, as a special law for a Borneo State shall not be exercised by him so as to exclude or remove from the Borneo State a person entitled to be in the Federation outside the Borneo State, except with a view to making effective the powers conferred by this Part on the authorities of the State; and no such person shall in the exercise of those powers be required to leave and depart from the Federation nor, without his consent, be removed from the Federation.

General powers of State authority.

5. (1) In exercising his powers under the Immigration Ordinance, 1959, as a special law for a Borneo State the Controller shall comply with any directions given to him by the State authority, being directions—

(*a*) requiring him not to issue a Permit or Pass, or a specified description of Permit or Pass, to any specified person or

class of persons, or to do so only for a specified period or on specified terms and conditions; or

(*b*) restricting the making of endorsements on a Permit, Pass or Certificate or any description thereof; or

(*c*) requiring him to exercise any discretion vested in him to cancel any Permit, Pass or Certificate issued to a specified person, or to deem a specified person to be an undesirable immigrant, or to declare that a specified person's presence in the Borneo State is unlawful, or to order a specified person's removal from the State.

(2) Where the Controller takes any action in obedience or purported obedience to any directions given under sub-section (1), and there is an appeal to the Minister against that action, the Minister shall not allow the appeal without the concurrence of the State authority.

(3) An order under section 55 (exemptions) of the Immigration Ordinance, 1959 shall not have effect for the purposes of the Ordinance as a special law for a Borneo State, except in so far as its provisions are by the same or a subsequent order applied to those purposes with the concurrence of the State authority.

Restriction on citizen's right of entry into Borneo State.

6. (1) Subject to subsection (2) and to sections 7 and 8, a citizen of the Federation shall not be entitled to enter a Borneo State without having obtained a Permit or Pass in that behalf unless—

(*a*) he belongs to the Borneo State; or

(*b*) he is a member of the Federal Government, or of the Executive Council or Legislative Assembly of the Borneo State (or of any Council having similar functions in the State); or

(*c*) he is a judge of the Federal Court or of the High Court in Borneo, or is a person designated or nominated to act as such, or he is a member of any Commission or Council established by the Federal Constitution or by the constitution of the Borneo State; or

(*d*) he is a member of any of the public services of the Federation, or of the public service of the Borneo State, or of a joint public service serving the Borneo State, or is seconded to any such service.

(2) Where a citizen of the Federation is entitled to enter the Borneo State under sub-section (1), the citizen's children under the age of eighteen years and (if he is a man) his wife, if entering the Borneo State with, or to be with, the citizen, shall not be required by sub-section (1) to obtain a Permit or Pass in that behalf.

(3) Where a citizen of the Federation is not entitled to enter a Borneo State under this section, the Immigration Ordinance, 1959, in its operation as a special law in the Borneo State shall apply to him as if he were not a citizen:

Provided that a citizen arriving in the Federation in the Borneo State or in another of the Borneo States, and proceeding to a part of the Federation which he is entitled to enter, shall be entitled to such Pass as is reasonably required to enable him to do so.

(4) The burden of proof that a person is entitled to enter the Borneo State under this section shall lie on him.

7. Subsection (1) of section 6 shall not have effect in relation to a citizen of the Federation entering the Borneo State for the sole purpose of engaging in legitimate political activity; but the burden of proof that a person is entitled to enter the Borneo State under this section shall lie on him.

Right to enter Borneo State for exercise of political rights.

8. (1) Subsection (1) of section 6 shall not have effect in relation to any citizen of the Federation whose entry into the Borneo State is temporarily required by the Federal Government in order to enable that Government to carry out its constitutional and administrative responsibilities.

Right to enter Borneo State for purposes of Federal Government.

(2) The Minister shall from time to time notify the Controller of the persons or classes of persons whose entry into a Borneo State is required as aforesaid, and shall give him such particulars as are necessary to enable him to discharge his functions in relation to those persons; and in relation to any Borneo State subsection (1) shall not be taken to apply to any person unless he is a person, or belongs to a class of persons, so notified to the Controller in relation to that State.

(3) The Minister shall not give any notification to the Controller under subsection (2) except after consultation with the State authority.

9. (1) The powers of the Controller under the Immigration Ordinance, 1959, shall be so exercised as to allow the entry into a Borneo State of any person if his entry is required by the government of the State for purposes of that government.

Entry from outside Federation for purposes of State Government.

(2) The State authority shall from time to time notify the Controller of any person whose entry is required as aforesaid,giving such particulars as are necessary to enable the Controller to discharge his functions in relation to that person; and sub-section (1) shall not be taken to apply to any person unless he is a person so notified to the Controller.

(3) The State authority shall not give any notification to the Controller under sub-section (2) except after consultation with the

Minister; and if the Minister considers it desirable in the national interest for entry to be refused to the person in question, and so informs the State authority, the notification shall not be given.

Temporary protection for potential citizens in a Borneo State.

10. (1) As regards entry into and residence in a Borneo State and all matters connected therewith a person entitled in the State to the benefit of this section shall be treated for the purposes of the Immigration Ordinance, 1959, as if he were a citizen of the Federation.

(2) Subject to the provisions of this section, a person shall be entitled in a Borneo State to the benefit of the section if—

(*a*) on Malaysia Day he is ordinarily resident in the State, and in the ten years immediately preceding that day he has resided in the territories comprised in the Borneo States and Brunei for periods which amount in the aggregate to not less than seven years; and

(*b*) immediately before Malaysia Day under the immigration law of the territories comprised in the State, he would as being a Commonwealth citizen (or if not a Commonwealth citizen, then in the case of Sabah as having been before November 1931 born in North Borneo) have been entitled to enter those territories without having obtained a permit or pass.

(3) A person shall not be entitled to the benefit of this section after the beginning of September, 1965:

Provided that where before September, 1965, a person entitled in a Borneo State to the benefit of this section makes an application to be registered as a citizen of the Federation and the application is not disposed of before the beginning of that month, he shall continue to be so entitled until the application is disposed of.

(4) So long as a person is entitled in a Borneo State to the benefit of this section that person's children under the age of twenty-one years and (if he is a man) his wife shall as regards entry into and residence in the State and all matters connected therewith be treated for the purposes of the Immigration Ordinance, 1959, as if they were citizens of the Federation.

(5) For the purpose of determining whether paragraph (*b*) of sub-section (2) is satisfied in the case of any person, any question which under the immigration law of the territories comprised in a Borneo State would have fallen to be determined by an authority or officer of the government of those territories shall be determined by the Minister.

(6) A person who has left a Borneo State on or after Malaysia Day shall not be entitled in the State to the benefit of this section if the Minister is satisfied that his residence in the State would be prejudicial to public security.

(7) This section shall not entitle any person for the purpose of reaching a Borneo State to enter or remain in any part of the Federation outside the State otherwise than in accordance with the Immigration Ordinance, 1959, as it applies to persons who are not citizens of the Federation; but a person entitled by virtue of this section to enter a Borneo State shall be entitled to receive such Pass to enter a part of the Federation outside the State as is reasonably required to enable him to do so.

(8) For persons entitled to enter a Borneo State by virtue of this section regulations under the Immigration Ordinance, 1959, may, as respects Certificates of Status and other matters, make special provision different from that made for citizens of the Federation.

(9) For purposes of this section residence shall be calculated in like manner as for the purpose of registration as a citizen of the Federation, and "child" includes in relation to a woman, an illegitimate child.

11. (1) For purposes of section 6, a citizen of the Federation shall be treated as belonging to a Borneo State if— Persons to be treated as belonging to Borneo State.

(*a*) he is or has within the preceding two years been a permanent resident in the Borneo State; or

(*b*) he became a citizen of the Federation in any of the following ways, that is to say,

(i) by operation of law on Malaysia Day in respect of his being a citizen of the United Kingdom and Colonies ordinarily resident in the State; or

(ii) by operation of law on or after Malaysia Day in respect of his birth in the Federation and of one of his parents being at the time of the birth a permanent resident in the Borneo State; or

(iii) by registration in respect of his being on Malaysia Day ordinarily resident in the Borneo State.

(2) Subject to subsection (3) a person shall not be treated for purposes of this section—

(*a*) as becoming a permanent resident in a Borneo State after not being one, until he has in a period not exceeding five years been resident in the State for periods amounting to three years; or

(*b*) as being a permanent resident in a Borneo State at any time when under federal law he requires permission to reside there and has not got permission to do so granted without limit of time.

(3) paragraph (a) of subsection (2) shall not prevent a woman being treated as a permanent resident in a Borneo State at any time when she is married to a permanent resident in the State and is ordinarily resident there with him.

(4) In determining for the purposes of this section whether a person is or was at any time a permanent resident in a Borneo State no account shall be taken of any period of residence in the State while he is there by virtue of section 7 or 8 ; but a period of residence or of permanent residence shall not for purposes of this section be treated as interrupted or terminated—

(*a*) by a period of absence from the State of less than six months ; or

(*b*) by a period of absence from the State for purposes of education of such kind, in such country and for such time as may from time to time be either generally or specially approved by the State authority ; or

(*c*) by a period of absence from the State on duty in the service of the Federation or of any State, where the absence is not inconsistent with the essential continuity of the residence in the State ; or

(*d*) by a period of absence from the State for any other cause allowed generally or specially by the State authority.

(5) A person who for purposes of the Immigration Ordinance, 1959, is for the time being treated under section 10 of this Act as a citizen of the Federation in respect of his being on Malaysia Day ordinarily resident in a Borneo State shall for purposes of section 6 be treated as belonging to that State.

(6) Any authority empowered under the Immigration Ordinance, 1959, in its operation as a special law for a Borneo State to issue Certificates of Status showing that a person belongs to that State shall (unless the authority is an authority of the State) notify the State authority of any application for the issue of such a Certificate, and if so required by the State authority consult with that authority before issuing the Certificate.

Meaning of "State authority".

12. In this Part of this Act " State authority " means, for any purpose relating to a Borneo State, the Chief Minister of the State or such person holding office in the State as the Chief Minister may designate for that purpose by notification in the State Gazette.

Part III

SUPPLEMENTARY

Travel documents required.

13. (*1*) Subject to any exemption granted under section 55 of the Immigration Ordinance, 1959, every person entering Malaya or a Borneo State from a place in the Federation outside Malaya or outside that State, as the case may be, shall produce to the immigration officer either an internal travel document issued under section 14 or the like passport, or other travel document, having the like visa (if any), as

would be required by the law for the time being in force with respect to passports if he were entering from a place outside the Federation.

(2) A person shall be guilty of an offence against the Immigration Ordinance, 1959, if he enters Malaya or a Borneo State contrary to the provisions of sub-section (1), or attempts to do so, or abets any person to do so.

Provision for internal travel documents.

14. (1) The Minister shall make arrangements for the issue to citizens of the Federation, in such circumstances and on such conditions as may be prescribed, of special travel documents for travel within the Federation ; and any such document shall be known as an internal travel document, and shall not be deemed to be a passport within the meaning of any law relating to passports.

(2) In the following provisions of the Immigration Ordinance, 1959, that is to say,—

(*a*) in section 53 (under which the counterfoils of Permits, Passes etc. are receivable in evidence) ; and

(*b*) in subsection (1) of section 56, in paragraphs (*i*) to (*l*) (under which frauds in connection with Permits, Passes etc. are made offences against the Ordinance) ;

after the word " Pass ", in each place where it occurs, there shall be inserted the words " internal travel document ".

Continuation of State subsidiary legislation.

15. (1) The repeal by this Act of any law in force immediately before Malaysia Day in the territories comprised in a Borneo State or Singapore shall not affect the operation of any subsidiary legislation then having effect under that law ; but, subject to section 16, any such subsidiary legislation shall continue to have the like effect, as nearly as may be, for any corresponding purpose of the Immigration Ordinance, 1959, until it is superseded by any regulations or order made under that Ordinance.

(2) No such subsidiary legislation in force in a Borneo State shall be so superseded in whole or in part without the concurrence of the Chief Minister of the State.

Power to make supplementary and transitional provision.

16. (1) The Minister may by order make provision for all or any of the following matters:

(*a*) for any necessary adaptation, in the application of the Immigration Ordinance, 1959, to a Borneo State or to Singapore, of references to any law or authority which are not applicable in that State ;

(*b*) for enabling powers conferred by that Ordinance or this Act on authorities outside a Borneo State to be exercised by an authority in the State, until the Minister otherwise directs ;

(*c*) for any savings from the effect of any amendment or repeal made by this Act, and for any modification, in connection with the coming into operation of this Act or the Malaysia Act, of anything done before Malaysia Day under or for

the purposes of the Immigration Ordinance, 1959, or any immigration law repealed by this Act;

(*d*) for any adaptations necessary for the purposes of section 15 of any subsidiary legislation continued in force by that section, (including adaptations necessary to secure that things done thereunder shall be recognised or have effect throughout the Federation);

(*e*) generally for facilitating the bringing into force of this Act and for securing the continuity thereof with the immigration laws in force immediately before Malaysia Day.

(2) This section shall have effect from the passing of this Act so as to authorise the making of orders to take effect on or after Malaysia Day, and no order shall be made under this section after that day.

(3) No order under this section shall make any adaptation in the subsidiary legislation to be continued in force in a Borneo State, except with the concurrence of the Governor of the Colony.

((Section 3(2)

SCHEDULE

GENERAL ADAPTATIONS OF IMMIGRATION ORDINANCE, 1959

1. The following provisions shall be omitted:—

(*a*) in section 2 the definition of " citizen of Singapore ", and in the definition of " entry " the words " for some place outside Malaya "; and

(*b*) in sections 5, 6 and 7 the words " from any place outside Malaya " in sub-section (1); and

(*c*) in section 6, sub-section (2) and, in sub-section (3), the words " or (2) "; and

(*d*) in section 7, paragraph (*b*) of sub-section (1) and sub-section (2); and

(*e*) in section 8, in subsection (1), the words from " or a citizen " in paragraph (*a*) to the end of paragraph (*b*) and, in sub-section (2), the words " from any place outside Malaya or from Singapore " in paragraph (*a*) and the words " from any place outside Malaya " in paragraph (*b*), and in sub-section (6) the words from " or of " to " Singapore "; and

(*f*) in section 11, paragraph (b) of sub-section (1); and

(*g*) in section 15, sub-section (3) and, in sub-section (4), the words " of sub-section (1), (2) or (3) "; and

(*h*) in section 16, sub-section (2) from the word " or " onwards; and

(*i*) in section 18, in sub-section (1), the words " from any place outside Malaya "; and

(*j*) in section 25, in sub-section (1), the words " for a place outside Malaya "; and

(*k*) in section 26, in sub-sections (1) and (2), the words " from a place outside Malaya " and, in sub-section (3) the words " for a place outside Malaya "; and

(*l*) in section 28, in sub-section (1), the words " from any place outside Malaya " and the words " for any place outside Malaya "; and

(*m*) in section 32, in sub-section (1), the words " or citizen of Singapore ", and sub-section (2); and

(*n*) in section 33, in sub-section (2), the words from " or of any pass " in the proviso onwards; and

(*o*) in section 36,, the words " or Singapore "; and

(*p*) section 37; and

(*q*) in section 46, in sub-section (1), the words " or a citizen of Singapore " in paragraph (*a*) and, in sub-section (3), the words " or Singapore "; and

(*r*) in section 53, the words from " or under " to " in Singapore ", and the words " of the Federation or Singapore, as the case may be "; and

(*s*) in section 56, in sub-section (1), paragraphs (*c*) and (*e*) and, in paragraph (*k*), the words from " or any permit " to " Singapore ".

2. The words " the Federation " shall be substituted for the word " Malaya " in the following places, namely, in the definition of " through passenger " in section 2: in paragraphs (*i*) and (*j*) of sub-section (3) of section 8: in both places where it occurs in paragraph (*a*) of sub-section (1) of section 9: in both places where it occurs in sub-section (1) of section 11: in sub-section (2) of section 16: in sub-section (2) of section 17: in sub-section (2) of section 42: in sub-section (1) of section 45: in section 47.

3. The words " a citizen of the Federation " shall be substituted—

(*a*) in sub-section (1) of section 6 for the words " a person specified in section 7 "; and

(*b*) in sub-section (3) of section 7 for the words " a person to whom this section applies "; and

(*c*) in sub-section (1) of section 11 for the words " a person entitled to enter the Federation under the provisions of sub-section (1) of section 7 "; and

(*d*) in sub-section (2) of section 42 for the words " entitled under the provisions of section 7 to enter the Federation without having obtained a Permit or a Pass ";

and the words " as a citizen of the Federation " shall be substituted in sub-section (1) of section 10 for the words " under the provisions of section 7 ".

4. (1) The provisions now contained in section 2 shall become sub-section (1) of that section, and there shall be added to the section as sub-section (2)—

" (2) For the purposes of this Ordinance a person travelling between two places in the Federation without entering any territory outside the Federation shall not be treated as leaving, entering or arriving in the Federation because in so doing he passes out of and returns into the Federation."

(2) After section 23 there shall be inserted as section 23A—

" Vessels and aircraft arriving in or leaving Malaya.

23A. The foregoing sections of this Part shall apply in relation to a vessel arriving in or leaving Malaya as they apply in relation to a vessel arriving in or leaving the Federation."

5. At the end of section 3 there shall be added as sub-section (3)—

" (3) The Yang di-Pertuan Agong may under sub-section (1) appoint two or more Controllers to be stationed in and to act for different parts of the Federation; but anything required or authorised to be done by, to or before the Controller shall, if there are more than one Controller, be valid and effectual if done by, to or before any of them."

6. In section 19, after paragraph (*c*) of sub-section (1), there shall be inserted as paragraph (*d*)—

" (*d*) a consular officer of the country to which the vessel belongs."

7. Section 61 is hereby repealed.

ANNEX F

1. Paragraph (14) of section 6 of Annex 3 of the Agreement of External Defence and Mutual Assistance between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federation of Malaya of 12th October, 1957 (referred to in this Annex as " the defence agreement ") shall have effect in relation to land or buildings held by the Service authorities in Singapore as if—

(*a*) the references to a local Government authority were references to the State of Singapore ; and

(*b*) the reference to facilities and services normally covered by the general rating assessment were a reference to the facilities and services normally covered by the general rating assessment of a municipality.

2. Annex 4 of the defence agreement shall have effect in its application to lands in Singapore with the following modifications—

(*a*) for paragraphs (2), (3) and (4) the following paragraph shall be substituted :

" (2) The land to which this Annex applies occupied by the Service authorities at the date of the signature of the Malaysia agreement is described in the Schedule to Annex F of that agreement and falls into the three following categories: —

(*a*) Land which is leased or was to be leased by the Government of Singapore to the Services Lands Board for a term of 999 years ;

(*b*) Land which is leased or was to be leased by the Government of Singapore or by public authorities to the Services Lands Board or other authorities of the United Kingdom for terms shorter than 999 years ;

(*c*) Land made available by the Government of Singapore to the Armed Services of the United Kingdom."

(*b*) For paragraphs (6), (7) and (8) the following paragraphs shall be substituted: —

" (6) In view of the foregoing and in order to permit the Service authorities to hold a registrable interest in the land they occupy the Government of Malaysia undertakes to enact legislation which will permit the Service authorities through their representative to hold registrable interest in land and property in accordance with the provisions of this Annex for the purposes of this agreement and of the Proviso to Article VI of the Malaysia Agreement and which with that object will provide also for the incorporation in the Federation of the representative of the Service authorities.

(7) The Government of Malaysia will grant to the Service authorities leases initially for a period of 30 years. The Government of Malaysia will grant to the Service authorities if those Service authorities so desire a further lease or leases on the same terms and for such further periods as may be necessary to implement the terms of this agreement and of the Proviso to Article VI of the Malaysia Agreement.

(8) Where the title vested or to be vested in the Services Lands Board or other authority of the United Kingdom does not enure for 30 years, the lease shall be for that lesser period, but without prejudice to further leases being granted if the Service authorities so require. Land falling into category (*c*) of paragraph (2) shall continue to be held by the Service authorities as land made available unless a lease or leases is granted of it to the Service authorities at their request."

(*c*) In paragraph (9) after the words " further land " there shall be inserted the words " including any further interest in land) " and after the words " local authority rates " there shall be inserted the words " or land or property tax ".

(*d*) (i) The provision of paragraph (13) shall apply to the disposal of land which falls into category (*a*) and category (*b*) of paragraph (2) and which becomes surplus to Service requirements but shall apply subject to any terms on which the land is held agreed to by the Service authorities.

(ii) When land which falls into category (*c*) of paragraph (2) becomes surplus to Service requirements the assets constructed thereon at British expense shall be offered to the Federal Government of Malaysia on terms to be agreed between that Government and the Government of the United Kingdom on the basis of the original cost of constructing such assets.

(iii) If land which falls into category (*c*) of paragraph (2) is not required by the Federal Government of Malaysia and reverts to the State of Singapore the assets constructed thereon (excluding the land) shall be disposed of in the open market on terms acceptable to the Service authorities and the net proceeds accruing therefrom shall be paid to those authorities.

(*e*) The following paragraph shall be added :—

" (15) In this Annex " the Malaysia Agreement " means the Agreement relating to the establishment of Malaysia."

3. In a letter dated 8th July, 1963 the Government of the United Kingdom have notified the Government of Singapore of their intention to release certain areas of Crown land made available to the Armed Services subject, in some cases, to certain special conditions. As each such area is released it shall be deemed to be deleted from the Schedule to this Annex.

SCHEDULE TO ANNEX F

LAND OCCUPIED BY THE UNITED KINGDOM SERVICES IN SINGAPORE

Notes: 1. Acreages quoted for land where 999 year leases are awaited and for land made available by the State of Singapore are subject to survey.

2. In cases where 999 year leases have not yet been issued, the area of Crown reserves and road reserves will be excluded.

Serial No. (*a*)	Name or Description of Base (*b*)	Mukim (*c*)	Lot No. (*d*)	Acreage (*e*)	Form of Existing Title (*f*)
1	SEMBAWANG				
	H.M. Naval Base	XIII	151–61	2.0.27.89	Services Lands Board 999 year lease.
			201	31.0.22	
			217	63.2.33	
				97.0.02.89	
			226	2,356.0.00	Crown Land made available.
	Foreshore and seabed	—	—	—	Held under the Naval and Air Bases Ordinance.
2	SEMBAWANG				
	R.N. Air Station...	XIII	218	870.0.00	Services Lands Board 999 year lease.
3	KRANJI				
	R.N. W/T Station	XI	41	1.1.33.8	Services Lands Board 999 year lease.
			166	3.3.19.5	
			168	2.1.29.0	
			169	119.2.00.0	
				127.1.02.3	
			167	50.1.00	Crown land made available.

Serial No. (a)	Name or Description of Base (b)	Mukim (c)	Lot No. (d)	Acreage (e)	Form of Existing Title (f)
4	LOYANG, CHANGI				
	Boom Defence Depot	XXXI	489	43.1.13	Services Lands Board 999 year lease.
	Access Road	—	294^{1}		
			296^{2}		
			296^{3}	5.0.00	Awaiting issue of 999 year lease to
			296^{1}	(approx.)	Services Lands Board.
			289^{23}		
			289^{24}		
			289^{20}	0.0.19.76	Crown land made available.
			289^{18}	1.1.06.4	
	Reservoir Site	—	296^{9}	0.1.12.07	Services Lands Board 999 year lease.
5	PASIR PANJANG				
	(a) Normanton Oil Fuel Depot...	III	597^{9}	0.3.30.84	
			598^{6}	2.0.37.2	
			161^{1}	0.3.10.39	Services Lands Board 999 year lease.
			162^{2}	0.2.34.56	
			168^{2}	5.2.20.2	
			132^{11}	14.0.39	Awaiting issue of 999 year lease to
			136^{34}	30.1.16	Services Lands Board.
6	JURONG				
	Bukit Gombak	X	361	85.0.00	Services Lands Board 999 year lease.
7	MOUNT FABER				
	Oil Fuel Depot	I	126^{103}	3.2.11.00	Awaiting issue of 999 year lease to
			126^{108}	0.0.04.41	Services Lands Board.
			213^{40} pt	1.2.09.05	
			222		
				5.0.24.46	

8	PANDAN AND JURONG				
	Wayleave for Pipeline ...	—	—	—	Yearly agreement with Malayan Railways.
9	HARBOUR BOARD WHARVES AND EMPIRE DOCK				
	(*a*) Common Oil facilities ...	—	—	—	Yearly agreement with Singapore Harbour Board.
	(*b*) Wayleave and right of entry from Admiralty pumping station to Common Oil facilities.	—	—	—	Yearly agreement with Singapore Harbour Board.
10	KING'S DOCK				
	Site for pump house	—	—	—	Lease for 30 years from 1st January, 1953 from Singapore Harbour Board.
11	BEDOK				
	Bedok Sonic Range with access road.	XXVII	91–1 pt 100–7 pt	1,200 sq. ft. (approx.)	Awaiting issue of 999 year lease to Services Lands Board.
12	PASIR LABA	VIII	33^{12} 33^{13} 33^{15}	3.3.25.10 0.2.29.66 28.1.39.00	Crown land made available.
				33.0.13.76	
13	CHIN BEE				
	Wireless Transmitting Station ...	VI	135^{1}	217.2.00	Services Lands Board 999 year lease.

Serial No. (a)	Name or Description of Base (b)	Mukim (c)	Lot No. (d)	Acreage (e)	Form of Existing Title (f)
14	KRANJI				
	Base Ammunition Depot—				
	(a) Depot Area	XI	171	7.1.32.1	Services Lands Board 999 year lease.
			173	181.1.00.0	
				188.2.32.1	
			172	130.2.30.0	Crown Land made available.
	(b) Access and Egress Road ...	—	Various	—	
	(c) Safety Zone	—	—	—	
15	KRANJI				
	BOD Sub Depot—				
	Land	XI	39^{35}	11.3.30.00	Services Lands Board Lease for 30 years from 1st January, 1958.
			39^{93}	8.1.01.50	
		XIII	151^{68}	5.1.09.50	
			151^{70}	0.1.19.14	
16	KEAT HONG				
	Base Ordnance Depot—				
	(a) Depot Area	X	199^{1}	2.3.16	Services Lands Board 999 year lease.
			375	120.0.20	
			376	45.2.35	
				168.2.31	
			379	8.2.35.4	Crown land made available.
	(b) M.O.R. Married Quarters, Kamjong Culforte.	XI	12^{1}	4.2.21.6	999 year lease not yet issued.
			11^{6}	3.3.18.6	Crown land made available.

17	BUKIT TIMAH ROAD Field Park Squadron	IV Ulu Pandan	24264 607 608 609	0.1.15.11 4.3.01.47 4.3.37.39 1.3.33.70	Services Lands Board 999 year lease.
				12.0.07.67	
18	FLAGSTAFF HOUSE C.-in-C.'s Residence	XVII Toa Payoh	440^{1}	11.2.34	Services Lands Board 999 year lease.
19	DRAYCOTT HOUSE, STEVENS ROAD G.O.C. Residence	TS. No. XXV	127^{6}	3.2.00	Services Lands Board 999 year lease.
20	KINLOSS HOUSE, 18 NASSIM ROAD School Boarding House ...	TS. No. XXV	147	4.2.35.57	Services Lands Board 999 year lease.
21	WOODSTOCK DRIVE, No. 48 H.Q. Movements Control ...	TS. No. XXIV	97	2.3.31.9	Awaiting issue of 999 year lease.
22	TANGLIN G.H.Q., Officers Barracks and Married Quarters Area.	II Tanglin	104^{9} 104^{10} 104^{13} 116^{2}	} 217.1.39	Crown land made available.
23	GILLMAN, ALEXANDRA AND PASIR PANJANG (*a*) Gillman Barracks, etc. ...	I Telok Blangah	381	309.2.24.7	Services Lands Board 999 year lease.
	(*b*) B.M.H.	III I III III	597^{2} 112^{54} 133^{3} 262	1.3.03.38 0.0.29.31 5.0.12.4 25.1.01.9	Awaiting issue of 999 year lease to Services Lands Board.
				32.1.06.99	

Serial No. (a)	Name or Description of Base (b)	Mukim (c)	Lot No. (d)	Acreage (e)	Form of Existing Title (f)
	(c) Alexandra Messes and Married Quarters Area.	III	121^{8}	0.0.32.40	Awaiting issue of 999 year lease to Services Lands Board.
			359	179.1.05.5	
			357	3.0.19.4	
			139^{4}	1.2.33.63	
			59–69	1.1.14.6	
			126^{2}	2.0.30.00	Crown land made available.
	(d) Pasir Panjang—Main Base Area.	III	59^{37}	0.1.03.42	Services Lands Board 999 year lease.
			59^{90}	0.2.18.33	
			59^{94}	553.1.00.00	
			59^{96}	49.0.11.00	
			59^{76}	36.3.33.00	
			265	242.1.20.00	
			268	0.3.21.00	
			298	0.1.17.57	
			300	0.0.14.88	
			59^{35}	0.3.36.49	
			59^{88}	0.3.09.11	
			59^{93}	1.3.37.75	
			50^{100}	251.2.20.00	
			351	0.0.01.50	
			353	193.0.20.00	
			354	1.0.25.40	
			281	154.2.10.00	
			349	4.3.21.40	
			283	55.3.17.00	
			162^{10}	9.3.00.10	
			59^{81}	6.3.23.50	
			264	1.2.08.10	
			266	1.1.07.00	
			267	1.0.14.00	

			277	469.2.00.00	
			59^{33}	3.1.13.10	
			59^{77}	0.2.28.70	
			161^{7}	2.2.23.50	
			173	1.0.33.43	
				2,046.3.09.28	
		III	340	1.2.01.10	Services Lands Board 999 year lease.
	(*e*) Ulu Pandan— Minor units and Training Area.	V	198	415.3.29.59	Awaiting issue to Services Lands Board.
		IV	242	48.2.35.00	
			243	77.2.36.00	
				126.1.31.00	
			—	1.0.10.00	Crown land made available.
		IV	55^{35}	0.0.23.48	Awaiting issue of 999 year lease to Services Lands Board.
24	FORT CANNING District H.Q., Married Quarters, Radio Relay Site, Movement Centre and Bungalow.	T.S. No. XX	178 pt	19.1.37.00	Crown land made available.
25	PULAU BRANI	XXXIV	16^{2}	86.0.13.67	Crown land made available.
26	PULAU BLAKANG MATI Barracks	XXIV	92	649.2.31.00	Crown land made available.
27	TANJONG BERLAYER	III	1^{1} 2^{1} 2^{3} 2^{4}	14.2.00.00	Held from Singapore Government on terms of an unsigned lease for 30 years from 1953.

Serial No. (a)	Name or Description of Base (b)	Mukim (c)	Lot No. (d)	Acreage (e)	Form of Existing Title (f)
28	NEE SOON				
	(a) Far East Training Area ...	XIII	212	329.0.00.00	Services Lands Board 999 year lease.
		XIX	16^{2}	0.2.20.20	
	(b) Rifle Ranges	XIV	—	95.0.00.00	Crown Land made available. Future tenure to be agreed.
29	BUKIT TIMAH				
	Rifle Range	XVI	2^{3}	4.1.29.00	Crown Land made available for 30 years from 1953. Future tenure to be agreed.
			24^{1}	23.3.24.00	
			81^{4} pt	85.1.00.00	
			74^{2}	0.0.17.00	
			25^{1} pt	5.3.10.00	
			67^{57} pt	11.1.00.00	
			66 pt	83.0.00.00	
			2, 24, 5, 67 pt	1.2.00.00	
30	SEMBAWANG				
	Khatib Training Ground and Site for Barracks.	XIX	89^{1}	375.1.29.55	Awaiting issue of 999 year lease to Services Lands Board.
			89^{2} pt	128.0.10.00	
			89^{3}	1.3.12.00	
			89^{4}	5.0.09.20	
		XIX	14^{3}	3.3.23.20	
			14^{4}	2.0.16.80	
31	YIO CHU KANG ROAD				
	Amoy Quee Wireless Receiving Station.	XVIII	263^{2}	326.0.00.00	Services Lands Board 999 year lease.

32	CHANGI Selerang Barracks	XXXI Changi	290 341^{2} pt 342^{2} pt	23.1.24.00 0.3.00.00 36.2.00.00	Awaiting issue of 999 year lease.
				60.2.24.00	
			289^{19} pt 289^{21}	153.2.00.00 56.3.12.00	Crown land made available.
				210.1.12.00	
33	CHANGI R.A.F. Jungle School	XXXI	216^{18} 351	1.2.25.60 0.1.20.34	Awaiting issue of 999 year lease. Crown Reserve made available.
34	CHANGI Signals Leave Centre	XXXI	561 pt 561 pt	1.2.18.00 0.2.00.00	Awaiting issue of 999 year lease. Crown Land made available.
				2.0.18.00	
			572 562 347	0.3.27.00 0.0.24 11.0.01	Awaiting issue of 999 year title. Crown Land made available.
35	PULAU TEKONG BESAR Rifle Range and Training Area...	XXXII Pulau Tekong	Various	277.0.15.95	Awaiting issue of 99 year lease.
			113^{5} 117 139^{3} 291 pt 156 292 293	4.1.31.00 1.0.00.00 0.2.22.54 — 1.0.30.00 16.1.24.00 4.0.20.00	Crown Land made available.
				27.3.07.54	

Serial No. (*a*)	Name or Description of Base (*b*)	Mukim (*c*)	Lot No. (*d*)	Acreage (*e*)	Form of Existing Title (*f*)
36	PHOENIX PARK H.Q. Unified Command and Office of the Commissioner General S.E. Asia.	II	272	15.0.14.00	Lease for 99 years from 15th June, 1948 to Minister of Works from Singapore Government.
37	TELOK BLANGA Labrador Cable Hut	I	7^{12}	0.0.01.20	Services Lands Board 999 year lease.
38	CHANGI R.A.F. Base and Airfield ...	XXXI	Various Various	1,125.0.00	Awaiting issue of 999 year lease to Services Lands Board.
			Various	536.0.00	Crown land made available.
				1,661.0.00	
39	SELETAR R.A.F. Base and Airfield ...	XX	325	1,464.0.00	Services Lands Board 999 year lease.
	Foreshore and Seabed		326 327 328	346.3.08	Crown Land made available.
				1,810.3.08	
40	CHOA CHU KANG AND LIM CHU KANG R.A.F. Base and Airfield, Tengah	IX, X IX, X	Various Various	1,001.0.00 (approx.)	Awaiting issue of 999 year lease to Services Lands Board. Crown Land made available.

41	ANG MO KIO Chia Keng Wireless Receiving Station.	XVIII	264–2 264–3 264–4 875	125.3.09.44	Services Lands Board 999 year lease.
42	JURONG Jurong Wireless Transmitting Station.	VI VII X	96–151 96–152 134 53–92 53–94 50	165.3.16.5	Services Lands Board 999 year lease.
43	SIME ROAD C.-in-C.'s Residence and H.Q. Works Area.	XV XVII	12–74 459	105.0.06	Services Lands Board 999 year lease.
44	CLUNY ROAD, TANGLIN A.O.C.'s Residence	II	1–13	2.3.32.06	Services Lands Board 999 year lease.
45	BEDOK Wing Loong Road Married Quarters.	XXViI	1,155	12.2.27	Services Lands Board 999 year lease.
46	WOODLANDS Bulk Fuel Installation	XIII	149–7	12.2.36 (approx)	Awaiting issue of 999 year lease to Services Lands Board.
47	PAYA LEBAR AIRPORT Radio Relay Site and Aerial Masts.	—	—	12,000 sq. ft. (approx)	Crown land made available.

Serial No. (a)	Address (b)	Owner (c)	Tenure
48	Room No. 1, Terminal Building, Paya Lebar Airport.	Director of Civil Aviation Manager, Singapore Airport, Singapore.	Monthly tenancy from 1st March, 1960.
49	Godown, 56A, Singapore Docks, 23,750 sq. ft. (Movements Section).	The Singapore Harbour Board	Lease for 3 years 1st January, 1962 with option to extend for further 3 years from 1st January, 1965.
50	West Wharf Police Station. 7,200 sq. ft. (Movements Centre).	The Singapore Harbour Board	Lease for 3 years from 1st December, 1961.
51	PAYA LEBAR AIRPORT. R.A.F. Traffic Control.	Director of Civil Aviation	Under Negotiation.
52	PAYA LEBAR AIRPORT. Air Movements Office	Director of Civil Aviation	1 year from 1st December, 1962.

ANNEX G

[NOTE : The form of the Order set out in this Annex is that appropriate for North Borneo. In order to make the form of the Order appropriate for Sarawak—

(i) " Sarawak " should be substituted for " North Borneo " or " Sabah " throughout (except in the definition of " judge " in paragraph 1 (1) of the Schedule),

(ii) " 56 " should be substituted for " 57 " in paragraphs 1(3)(*c*), 5 and 6 of the Schedule,

(iii) " Governor " should be substituted for " Yang di-Pertua Negara " in the definition of " appropriate authority in paragraph 1(1) and " North Borneo " should be substituted for " Sarawak " in the definition of " entitled officer " in paragraph 1(1) and in paragraph 18 of the Schedule,

(iv) the following proviso should be inserted after paragraph 17—

" Provided that section 10 of the Pensions Ordinance of Sarawak or any law amending or replacing that section shall not apply in relation to any pension granted under the provisions of this Schedule.".]

North Borneo (Compensation and Retiring Benefits) Order in Council, 1963

1. This Order may be cited as the North Borneo (Compensation and Retiring Benefits) Order in Council 1963. Citation.

2. The Interpretation Act 1889(a) shall apply, with the necessary adaptations, for the purposes of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament of the United Kingdom. Interpretation.

3. The provisions contained in the Schedule to this Order shall have effect in relation to the public service of North Borneo. Application of Schedule.

4. (1) Where any officer or authority has before the commencement of this Order in pursuance of any provision of the compensation scheme given any permission or consent or prescribed any condition or made any declaration or done any other thing for the purposes of that scheme, that permission, consent, condition, declaration, or other thing shall be deemed to have been given, prescribed, made or done, as the case may be, under the corresponding provision of the Schedule to this Order, and the provisions of that Schedule shall have effect accordingly. Transitional provisions.

(2) Where any officer has before the commencement of this Order in pursuance of any provision in the compensation scheme givèn any

undertaking or given or received any notice or retired he shall, provided that any conditions prescribed or deemed to have been prescribed by or under the Schedule to this Order are satisfied, be deemed to have given that undertaking, to have given or received that notice, or to have retired, as the case may be, under the corresponding provision in that Schedule, and the provisions of that Schedule shall have effect accordingly.

(3) Any conditions or notice prescribed by the appropriate authority for the purposes of paragraph 3(1)(*a*), paragraph 4(1) or paragraph 13(2) of the Schedule to this Order shall be not less favourable to any officer than any conditions or notice prescribed by or for the purposes of the corresponding provision of the compensation scheme.

(4) In this section " the compensation scheme " means the scheme for compensation, retiring benefits and related matters entitled " Scheme of Retirement Benefits for Members of Her Majesty's Overseas Civil Service and for officers designated under the Overseas Service (North Borneo) Agreement, 1961 ".

W. G. Agnew

THE SCHEDULE

Compensation and Retirement Benefits for certain Officers in the Public Service of North Borneo

Interpretation and application.

1\. (1) In this Schedule, unless the context otherwise requires—

" appropriate authority " means such person or authority as may from time to time be designated for the purposes of this Schedule by the Governor of North Borneo or, at any time after the end of the operative date, by the Yang di-Pertua Negara of the State of Sabah, and different persons or authorities may be so designated for the purposes of different provisions of this Schedule ;

" appropriate law " in relation to an officer in the public service means the law in force in North Borneo that governs the grant of pensions, gratuities, and other like benefits in respect of the service of that officer in the public service ;

" entitled officer " means an overseas officer in the public service who, on the operative date, has not attained the age of fifty-five years or, in the case of a judge, sixty-two years and—

(*a*) who was before the 1st January 1963, appointed or selected for appointment to an office in the public service, being a pensionable office for the purposes of the appropriate law ;

(*b*) who is on the operative date the substantive holder of an office that is at that date a pensionable office for the purposes of the appropriate law ;

(*c*) who is on the operative date a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary or a designated officer for the purposes of the Overseas Service (North Borneo) Agreement, 1961 ;

(*d*) who is after the operative date a judge or the substantive holder of an office that has at any time during his tenure thereof been a pensionable office for the purposes of the appropriate law ; and

(*e*) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in that appointment ;

and includes an officer appointed on or after the 1st January 1963 and before the operative date to an office in the public service being a pensionable office for the purposes of the appropriate law who would have been an entitled officer for the purposes of the Sarawak (Compensation and Retiring Benefits) Order in Council 1963, if his service in the public service had been service in Sarawak.

" the Federation " means the Federation to be known by the name Malaysia ;

" North Borneo " means the colony of North Borneo and, in relation to any period after the end of the operative date, the State of Sabah ;

" judge " means a judge of the Supreme Court of Sarawak, North Borneo and Brunei and, in relation to any period after the end of the operative date, a judge of the Federal Court or of a High Court of the Federation ;

" operative date " means 30th August 1963 ;

" overseas officer " means an officer in the public service whose terms of service on the operative date included an entitlement to a free passage from North Borneo for the purpose of leave of absence upon completion of a tour of duty ;

" pensionable emoluments " means emoluments that may be taken into account in computing the pension of an officer under the appropriate law ;

" pensionable service " means the aggregate amount of service that may be taken into account for the purpose of computing the pension of an officer under the appropriate law ;

" public service " means the public service of North Borneo ;

" substantive holder " in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract.

(2) For the purposes of the definition of " entitled officer " in sub-paragraph (1) of this paragraph, a person who was before the 1st January 1963, selected for appointment to an office in the public service being a pensionable office for the purposes of the appropriate law, but was appointed to that office on probation after the operative date, shall be deemed to have been serving in that office on probation on and since the operative date.

(3) For the purposes of this Schedule—

(*a*) a person shall not be regarded as holding any office on the operative date if on that date he was on leave of absence pending his retirement otherwise than under this Schedule ;

(*b*) a person whose office has been abolished and who retires in consequence of the abolition of his office shall be deemed to be the substantive holder of that office during the period between the date on which the office was abolished and the date of expiration of any leave of absence granted to him ;

(*c*) when an officer on probation is required to retire—

(i) under Article 57 of the Constitution of the State of Sabah ;

(ii) to facilitate the introduction of constitutional changes ;

(iii) because of the abolition of his office ; or

(iv) on the grounds of age in accordance with the provisions of the appropriate law,

he shall be deemed to have been confirmed in his appointment immediately before the day upon which he was given notice requiring him to retire.

(4) Where an officer was on any date appointed or selected for appointment to an office in the public service upon transfer from pensionable employment under the Government of the United Kingdom in a public office as defined by the Superannuation Act 1892(a) and for any period thereafter was entitled to return to such pensionable employment he shall not for the purposes of this Schedule be regarded as having been on that date appointed or, as the case may be, selected for appointment as the substantive holder of an office in the public service but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceases to be entitled to return to such pensionable employment if on that date he was the holder of an office in the public service.

Entitlement to compensation.

2. (1) Subject to the provisions of this Schedule, every entitled officer shall, on the operative date or, in the case of a person who becomes an entitled officer after that date, on the date on which he becomes an entitled officer, become entitled to compensation, which shall be assessed in accordance with the provisions of this paragraph and at each assessment shall be calculated by multiplying the amount of his annual pensionable emoluments on the date taken for calculation by the appropriate factor and the resulting amount, or twelve thousand pounds, whichever is the less, shall be the amount to which he is entitled:

Provided that an officer seconded to the service of another government or authority on the date taken for calculation shall, for the purposes of this paragraph, be deemed to have such annual pensionable emoluments on that date as he would have had on that date if he had not been so seconded but had continued until that date to hold the office in the public service that he was holding immediately before his secondment and had been granted all increments and other increases of salary for which he would thus have been eligible.

(2) The compensation of each entitled officer under this paragraph shall be provisionally assessed as soon as is reasonably practicable after the operative date or, in the case of a person who becomes an entitled officer after that date, as soon as is reasonably practicable after that person becomes an entitled officer, and for that purpose the date to be taken for calculation shall be the operative date or, in the case of a person who becomes an entitled officer after the operative date, the date on which that person became an entitled officer.

(3) The compensation under this paragraph of each person who is serving as an entitled officer shall be provisionally re-assessed upon each anniversary of the date in relation to which his compensation was assessed under sub-paragraph (2) of this paragraph, and shall be finally assessed upon his retirement or death while still serving as an entitled officer, and for the purposes of this sub-paragraph the date to be taken for calculation shall be such date (not being earlier than the date in relation to which his compensation was assessed under sub-paragraph (2) of this paragraph or later than the date upon which his compensation is provisionally re-assessed or finally assessed, as the case may be) as is most advantageous in relation to the officer.

(4) Each person who is serving as an entitled officer shall be entitled to additional compensation, notwithstanding that the additional compensation to which he is entitled under this sub-paragraph when added to the compensation to which he is entitled under the preceding provisions of this paragraph exceeds twelve thousand pounds, to be assessed on each occasion upon which his compensation is re-assessed under sub-paragraph (3) of this paragraph and calculated at each assessment by multiplying by decimal point 10 his annual pensionable emoluments for the period, reckoned in completed

years and months, beginning at the date by reference to which his compensation was last assessed and ending at the date by reference to which the next following assessment of his compensation is made:

Provided that any period of leave of absence for which such person is eligible and which is leave of absence in respect of a tour of duty which terminated before the operative date and the enjoyment of which has been deferred, shall not be taken into account in reckoning the period referred to in this sub-paragraph.

(5) In this paragraph " the appropriate factor " in relation to an officer means the factor obtained from Table I of the Annex to this Schedule (or, in the case of a judge, Table II of that Annex) that is appropriate to the age and pensionable service of that officer on the date taken for calculation reckoned in completed years and months or, if it is more favourable to the officer, reckoned in completed years without regard to parts of a year.

Payment of compensation.

3. (1) When the compensation of an entitled officer has been provisionally assessed under paragraph 2(2) of this Schedule, a payment shall be made to that officer, which—

(*a*) in the case of an entitled officer who has undertaken to serve as such upon such conditions as may be prescribed by the appropriate authority for any period not being less than two years, shall be an amount equal to the amount of the compensation or two thousand pounds, whichever is the less;

(*b*) in any other case, shall be an amount equal to the amount of the compensation as so assessed or, if that amount exceeds one thousand pounds, then one-sixth of the amount of compensation or one thousand pounds, whichever is the greater:

Provided that if an entitled officer gives such an undertaking after a payment has been made to him under this sub-paragraph, but not later than twelve months after the operative date, he shall be paid as soon as is reasonably practicable after the date on which he gave that undertaking. an amount which when added to the amount already paid to him equals the mount he would have been paid under this sub-paragraph if he had given that undertaking before any payment had been made to him under this sub-paragraph.

(2) Subject to the provisions of this paragraph, a further payment shall be made to every person who has become entitled to compensation under paragraph 2 of this Schedule and who has not already received the whole of that compensation (whether that person is serving as an entitled officer or has retired) upon each anniversary of the date in relation to which his compensation was assessed under sub-paragraph (2) of that paragraph, which—

(*a*) in the case of a payment made upon the first, second, third or fourth anniversary, shall be an amount equal to the appropriate fraction of the balance of compensation then outstanding; and

(*b*) in the case of a payment made upon the fifth or any later anniversary, shall be an amount equal to the balance of compensation then outstanding:

Provided that—

(i) where the balance of compensation outstanding upon the first, second, third or fourth anniversary exceeds five hundred pounds and, in the case of an officer to whom sub-paragraph (1)(*a*) of this paragraph applies, where that balance, if added to the amount of compensation already paid under this paragraph would exceed two thousand pounds, an amount equal to the appropriate fraction of that balance or four hundred pounds, whichever is the greater, shall be paid;

(ii) where the balance so outstanding is less than five hundred pounds, or, in the case of an officer to whom sub-paragraph (1)(*a*) of this paragraph applies, where that balance exceeds five hundred pounds but would not, if added to the amount of compensation already paid under this paragraph, exceed two thousand pounds, an amount equal to that balance shall be paid.

(3) Each person who is serving as an entitled officer shall be paid on each anniversary of the date in relation to which his compensation under paragraph 2(2) of this Schedule was assessed, the additional compensation to which he is then entitled under sub-paragraph (4) of that paragraph.

(4) Whenever—

(*a*) a person who has become entitled to compensation under paragraph 2 of this Schedule but who has not already received the whole of that compensation (and in the case of an entitled officer whether he is still serving as such or has already retired) attains the age of fifty-five years or, in the case of a person who is or was when he retired a judge, sixty-two years, or dies before attaining that age;

(*b*) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 retires in the circumstances described in paragraph 4(4)(*a*), (*c*) or (*d*) of this Schedule before he has attained that age or is required to retire in the circumstances described in paragraph 4(4)(*b*) of this Schedule; or

(*c*) an entitled officer who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule retires in any other circumstances before he has attained that age but on or after the fifth anniversary of the operative date,

the balance then outstanding of the compensation to which he is entitled shall be paid to him or, if he is dead, to his personal representatives.

(5) Whenever an entitled officer, who has not already received the whole of the compensation to which he is entitled under paragraph 2 of this Schedule, is required before attaining the age of fifty-five years to retire

(*a*) in the circumstances described in paragraph 5 or paragraph 6 of this Schedule, the balance then outstanding of the compensation to which he is entitled under that paragraph shall be paid to him—

(i) if notice requiring him to retire is given to him while he is engaged upon a tour of residential service, before his departure from North Borneo; or

(ii) if such notice is given to him while on leave of absence after completing a tour of residential service, as soon as possible after the date upon which such notice is given to him;

(*b*) in the circumstances described in paragraph 7 of this Schedule, the balance then outstanding of the compensation to which he is entitled under paragraph 2 shall be paid to him as soon as possible after the date upon which notice requiring him to retire is given to him.

(6) The State Secretary may direct that instead of any payment being made to the personal representatives of a deceased person payment shall be made to one of the dependants of the deceased or to two or more of those dependants in such proportions as the State Secretary may think fit.

Provided that in the case of a deceased person having assigned the whole or part of the compensation due to him under this Schedule to

another person the balance outstanding of the compensation at the date of his death shall, to the extent to which it has been assigned by him, be paid to that other person.

(7) Whenever any payment of compensation is made under or in the manner prescribed by sub-paragraph (1) or sub-paragraph (2) of this paragraph, interest at the rate of five per centum per annum shall accrue from day to day during the period beginning at the date by reference to which that compensation was calculated and ending at the date of the next following assessment of compensation under any of the provisions of this Schedule upon any part of that compensation that did not become payable under this Schedule when the earlier assessment was made and that interest shall be paid in the manner and at the same time and place as that part of the compensation which is payable following the next assessment of compensation.

(8) In this paragraph " the appropriate fraction "—

(*a*) in relation to an assessment made upon the first anniversary, means one-fifth ;

(*b*) in relation to an assessment made upon the second anniversary, means one-quarter ;

(*c*) in relation to an assessment made upon the third anniversary, means one-third ; and

(*d*) in relation to an assessment made upon the fourth anniversary, means one-half.

Right to retire at any time.

4. (1) Subject to the provisions of this paragraph, an entitled officer may, after giving such notice as may be prescribed by the appropriate authority, retire at any time.

(2) An entitled officer who has given notice of his intention to retire under this paragraph on any date may, with the consent of the appropriate authority, withdraw the notice at any time before that date.

(3) No entitled officer shall retire under this paragraph without the permission of the Public Service Commission if the appropriate authority certifies that disciplinary proceedings are being taken against the officer and those proceedings might lead to his dismissal.

(4) An entitled officer—

(*a*) who is permitted to retire by reason of injury or ill-health ;

(*b*) who is required to retire on or after his attainment of any age prescribed by law ;

(*c*) who is required to retire in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the part of the public service to which he belongs by which greater economy or efficiency may be effected ;

(*d*) who is required to retire in the public interest ; or

(*e*) in the case of a woman officer, who is required to retire upon her marriage ;

shall be deemed to have retired under this paragraph.

(5) In the case of the retirement of an entitled officer in pursuance of a notice given under sub-paragraph (1) of this paragraph, he shall be provided by the Government of the State with such passages and baggage facilities as he would have been entitled to under the scheme entitled " The Scheme of Retirement Benefits for Members of Her Majesty's Overseas Civil Service and for Officers designated under the Overseas Service (North Borneo) Agreement 1961 ", if he had retired in pursuance of a notice given by him under that scheme of his election to retire from the public service.

(6) The provisions of paragraph 5 of this Schedule shall apply in the case of the retirement of an entitled officer who is required to retire in the circumstances described in sub-paragraph (4)(*b*) or (*c*) of this paragraph as they apply in the case of the retirement of an officer in the circumstances described in that paragraph.

Compulsory retirement.

5. The provisions of this Schedule shall apply to an entitled officer required to retire under Article 57 of the Constitution of the State of Sabah as if he were an entitled officer retiring under this Schedule:

Provided that—

(*a*) in the case of the retirement under that Article of an officer who is on leave of absence after completing a tour of residential service—

(i) he shall, if the period of leave on full pensionable emoluments for which he is eligible on the date upon which he is given notice under that section requiring him to retire is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence from that date up to six months;

(ii) he shall be provided by the Government of the State with a passage to North Borneo for his own use as if he were returning to the State for a further tour of residential service, and such passage (if he returns to the State) and such baggage facilities as an officer of similar status is entitled to under the General Orders of that Government when retiring from the public service, having attained the age of fifty-five years and having completed a final tour of residential service: and

(*b*) in the case of the retirement under that Article of an officer in any other circumstances—

(i) he shall not be required to depart from the State on leave of absence pending his retirement until the expiration of a period of six months from the date upon which he was given notice under that section requiring him to retire;

(ii) he shall be provided by the Government of the State with such passages and baggage facilities as an officer of similar status is entitled to under the General Orders of that Government when retiring from the public service, having attained the age of fifty-five years and having completed a final tour of residential service;

(iii) he shall, if the period of leave on full pensionable emoluments for which he is eligible is less than six months, be granted such additional leave on full pensionable emoluments as will bring the aggregate period of such leave of absence pending his retirement up to six months.

Compulsory retirement after secondment.

6. Where an entitled officer, having been seconded to the public service of the Federation and that secondment having been terminated, is required to retire upon the termination of his secondment and the Public Service Commission certifies that his secondment was terminated to enable a local candidate or officer to be appointed to the office to which he was seconded and that no suitable employment in the public service was available, the provisions of paragraph 5 of this Schedule shall apply to that entitled officer as if he were an entitled officer required to retire under Article 57 of the Constitution of the State of Sabah.

Retirement to facilitate constitutional changes.

7. (1) The provisions of this Schedule shall apply to an entitled officer who is required to retire to facilitate the introduction of constitutional changes as if he were an entitled officer retiring under this Schedule:

Provided that—

(*a*) he shall be paid before his departure on leave pending retirement, or as soon as possible thereafter, a disturbance grant equal to one-quarter of his annual pensionable emoluments at the date of his retirement;

(*b*) if the period of leave on full pensionable emoluments for which he is eligible on the date of his departure on leave pending retirement is less than six months, he shall be granted such additional leave on full pensionable emoluments as will bring the aggregate period of pensionable leave of absence from that date up to six months; and

(*c*) he shall be provided by the Government of North Borneo with such passages and baggage facilities as an officer of similar status is entitled to under the General Orders of that Government when retiring from the public service, having attained the age of fifty-five years and having completed a final tour of residential service.

(2) If any dispute arises as to whether or not an officer has for the purposes of this paragraph been required to retire to facilitate the introduction of constitutional changes it shall be referred to the Public Service Commission for decision and their decision shall be final.

Grant of pensions and gratuities to entitled officers.

8. (1) This paragraph applies to entitled officers who are the substantive holders of offices, being pensionable offices for the purposes of the appropriate law.

(2) Subject to the provisions of paragraphs 16 and 17 of this Schedule, an officer to whom this paragraph applies, on his retirement under this Schedule, may be granted at his option (such option to be exercised before the date of retirement or, in the case of an officer to whom paragraph 4(4) of this Schedule applies, within one month after that date) either—

(*a*) a pension of such amount as may be granted under the appropriate law;

(*b*) a reduced pension equal to such fraction as he may desire of the pension that may be granted under the appropriate law (not being, in the case of an officer who retires within twelve years of the operative date, less than the permitted fraction) together with a gratuity equal to the annual amount of the remaining fraction of that pension multiplied by the appropriate factor;

(*c*) a gratuity equal to the annual amount of the pension that may be granted under the appropriate law multiplied by the appropriate factor, but so that no such gratuity shall exceed that resulting from an annual pension of three hundred pounds multiplied by the appropriate factor and, where the gratuity equals a fraction of the annual amount of that pension (such fraction being less than three hundred pounds) multiplied by the appropriate factor, a reduced pension equal to the difference between that fraction and three hundred pounds; or

(*d*) in the case of an officer who retires not less than twelve years after the operative date, a gratuity equal to the annual amount of the pension that may be granted under the appropriate law multiplied by the appropriate factor.

(3) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—

(*a*) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension; and

(b) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

(4) Where an officer to whom this paragraph applies retires by reason of ill-health in circumstances in which he could under the appropriate law be granted an additional pension the provisions of this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law included references to that additional pension.

(5) Where an officer to whom this paragraph applies retires by reason of injury or in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the public service to which he belongs by which greater economy or efficiency may be effected in circumstances in which he could under the appropriate law be granted an additional pension, the provisions of this paragraph shall have effect in relation to that officer as if references to the pension that may be granted under the appropriate law did not include references to that additional pension.

(6) For the purposes of this paragraph the amount of the pension that an officer who is required to retire under paragraph 4(4)(b) or (c) or paragraph 5, 6 or 7 of this Schedule may be granted under the appropriate law shall be calculated as if his annual pensionable emoluments on the date by reference to which his compensation is finally assessed under paragraph 2 of this Schedule were the emoluments to be taken for computing his pension under the appropriate law.

(7) If an officer has not exercised the option conferred upon him by sub-paragraph (2) of this paragraph within the period in which it is required to be exercised he shall be deemed to have opted for the grant of a pension of such amount as may be granted under the appropriate law.

(8) In this paragraph—

"the appropriate factor" in relation to an officer means the factor obtained from Table III of the Annex to this Schedule that is appropriate to the age of that officer at his retirement reckoned in completed years and completed months;

"the permitted fraction"—

(a) in relation to an officer who retires within one year of the operative date, means three-quarters; and

(b) in relation to an officer who retires within not less than one year of the operative date, means such fraction as is obtained by subtracting one-sixteenth for each complete year of his pensionable service after the operative date from three quarters:

Provided that in reckoning for the purposes of this sub-paragraph the years of pensionable service of an officer who is granted leave of absence pending his retirement, leave of absence granted in respect of service prior to the operative date enjoyment of which had on the operative date been deferred shall not be taken into account.

Special gratuity for certain officers.

9. (1) Subject to the provisions of paragraphs 16 and 17 of this Schedule, where any entitled officer to whom Part III of the Schedule to the Pensions Ordinance of North Borneo applies retires under this Schedule and is granted by any government or other authority that is a scheduled government for the purposes of that Part both a pension and a gratuity, having elected to receive that pension and that gratuity in lieu of a pension of greater amount, he may be granted (in addition to any gratuity that may be granted to him under paragraph 8 of this Schedule) a gratuity equal to the amount (if any) by which the amount produced by—

(*a*) subtracting the annual amount of the pension granted to him by the scheduled government from the annual amount of the pension that would have been granted to him by that government had he not elected to receive the gratuity granted to him by the scheduled government; and

(*b*) by multiplying the resulting amount by the appropriate factor,

exceeds the amount of the gratuity granted to him by the scheduled government.

(2) Subject to the provisions of paragraphs 16 and 17 of this Schedule, where an entitled officer to whom the provisions of the Oversea Superannuation Scheme Regulations apply retires under this Schedule and is granted under those Regulations a pension and a lump sum—

(*a*) he may be granted a gratuity equal to the amount produced by subtracting that lump sum from the sum arrived at by multiplying by the appropriate factor one-quarter of the annual amount of the pension he would have received if his pension had been calculated under the Pensions Ordinance of North Borneo.

(3) In this paragraph " the appropriate factor " has the same meaning as in paragraph 8 of this Schedule.

Special gratuity on the death of certain officers.

10. (1) Where an entitled officer dies and it is lawful under the provisions of the appropriate law for a gratuity to be granted to his personal representatives there shall be granted to his personal representatives either that gratuity or a gratuity equal to the maximum gratuity which could have been granted to that officer under the provisions of paragraph 8 of this Schedule, if he had retired under this Schedule at the date of his death, whichever is the greater:

Provided that, in the case of an officer to whom Part III of the Schedule to the Pensions Ordinance of North Borneo applied, in respect of that proportion of the pension for which he would have been eligible, if he had retired under this Schedule at the date of his death, and which is attributable to his pensionable service otherwise than in the public service the provisions of paragraph 8(2)(*d*) of this Schedule shall not apply and the permitted fraction referred to in that paragraph shall not be less than three-quarters.

(2) For the purposes of the proviso to sub-paragraph (1) of this paragraph the proportion of a pension which is attributable to the pensionable service of an officer otherwise than in North Borneo shall be that proportion of the pension for which the officer would have been eligible if his pensionable service had been wholly in North Borneo as the aggregate amount of his pensionable emoluments during his pensionable service otherwise than in North Borneo bears to the aggregate amount of his pensionable emoluments throughout his pensionable service.

(3) Where an entitled officer to whom the Oversea Superannuation Scheme Regulations apply dies and a gratuity is payable to his personal representatives under those Regulations, there shall be granted to his personal representatives a gratuity equal to the amount produced by subtracting the amount of the gratuity payable under those Regulations from the amount of the maximum gratuity which could have been granted to that officer under paragraph 9 of this Schedule, if that paragraph and the Pensions Ordinance of North Borneo had applied to him and he had retired under this Schedule at the date of his death.

(4) The State Secretary may direct that instead of being paid to the personal representatives, any gratuity payable under sub-paragraph (1) or sub-paragraph (3) of this paragraph shall be paid to one of the dependants of the deceased or be divided among any two or more of those dependants in such proportions as the State Secretary may think fit.

Entitled officer re-appointed to U.K. service.

11. (1) This paragraph applies to an entitled officer who has retired under this Schedule and—

(*a*) who was transferred to the public service from pensionable employment under the Government of the United Kingdom in a public office as defined by the Superannuation Act, 1892; and

(*b*) who not later than twelve months after he retired has (other than as the result of a competition conducted by the Civil Service Commissioners of the United Kingdom) returned to such pensionable employment.

(2) A person to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 of this Schedule, but shall be entitled to compensation of an amount equal to—

(*a*) one-half of the amount he would receive if he were entitled to compensation under paragraph 2 of this Schedule; or

(*b*) the amount he would receive if he were entitled to compensation under paragraph 12 of this Schedule having been transferred to the pensionable employment referred to in sub-paragraph (1)(*b*) of this paragraph on the date on which he retired,

whichever is the less.

(3) If the provisions of this paragraph become applicable to any officer his compensation shall forthwith be re-assessed, and—

(*a*) if the amount of compensation as so re-assessed exceeds the amount he has already received under paragraph 3 of this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under that paragraph before the re-assessment in the manner prescribed by paragraph 3(2) of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule; or

(*b*) if the amount of compensation he has already received under that paragraph exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of such excess shall not be repayable.

Transfer of entitled officer to other public service.

12. (1) This paragraph applies to an entitled officer who is transferred from the public service—

(*a*) to the service of a government or authority that is a scheduled government for the purposes of Part III of the Schedule to the Pensions Ordinance of North Borneo in circumstances in which he remains eligible for the grant of a pension under the appropriate law or the Oversea Superannuation Scheme Regulations, as the case may be, upon his eventual retirement; or

(*b*) to service in the office of Governor in such circumstances that he is or may become eligible for a pension under the Governors' Pensions Act, 1957

Provided that—

(*a*) it does not apply to an officer to whom paragraph 11 of this Schedule applies;

(*b*) it applies to any officer who having served after the operative date for a tour or tours of duty amounting in the aggregate to not less than two years' residential service (or less than two years, in the case of an officer returning to pensionable employment under the Government of the United Kingdom in consequence of the termination of his service in the public service otherwise than on disciplinary grounds) would but for the provisions of sub-paragraph (4) of paragraph 1 of this Schedule be an

entitled officer and who, in the opinion of the appropriate authority, would have had a reasonable expectation of becoming an entitled officer if no constitutional changes had been introduced, as if he were an entitled officer.

(2) An officer to whom this paragraph applies shall cease to be entitled to compensation under paragraph 2 of this Schedule, but if the amount of his annual pensionable emoluments immediately before his transfer exceeds the amount of the annual emoluments payable to him immediately after his transfer (being emoluments that may be taken into account for the purpose of his pension under the law or regulations relating to his service in that other public service) he shall be entitled to compensation equal to—

(*a*) the amount of the excess multiplied by the appropriate factor ; or

(*b*) the amount he would receive if he were entitled to compensation under paragraph 2 of this Schedule, having retired on the date of his transfer,

whichever is the less.

(3) If the provisions of this paragraph become applicable to any officer, his compensation shall forthwith be re-assessed, and—

(*a*) if the amount of compensation as so re-assessed exceeds the amount he has already received under paragraph 3 of this Schedule, the balance of compensation then outstanding shall be paid, together with any unpaid interest that has accrued under that paragraph before the re-assessment in the manner prescribed by paragraph 3(2) of this Schedule for the payment of compensation assessed under paragraph 2 of this Schedule ; or

(*b*) if the amount of compensation he has already received under that paragraph exceeds the amount of compensation to which he is entitled under this paragraph, the excess shall forthwith become repayable, but in any such case any interest received on account of the excess shall not be repayable.

(4) In this paragraph " the appropriate factor " in relation to an officer means the factor obtained from Table IV of the Annex to this Schedule that is appropriate to the age of the officer at the date of his transfer reckoned in completed years and completed months.

Penalties for breach of undertakings.

13. (1) If an entitled officer who has given an undertaking for the purposes of head (*a*) of sub-paragraph (1) of paragraph 3 of this Schedule ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than by reason of his death or his retirement in circumstances beyond his control, then the amount of compensation to which he would otherwise be entitled under paragraph 2 of this Schedule shall be reduced by one-half per cent for each month or part of a month during that period in which he has not served in accordance with the undertaking.

(2) If an entitled officer has been granted promotion in the public service (whether before or after the operative date) upon his giving an undertaking to serve upon such conditions as may be prescribed by the appropriate authority for any period ceases to serve in accordance with the terms of that undertaking at any time before the end of the period to which the undertaking relates otherwise than by reason of his death or his retirement in circumstances beyond his control then the amount of compensation to which he is entitled under paragraph 2 of this Schedule shall be calculated as if his annual pensionable emoluments on the date taken for calculation were equal to his annual pensionable emoluments immediately before his promotion or were equal to the average of his annual pensionable emoluments during the three years immediately preceding his so ceasing to serve, whichever are the greater ; and in determining the average of such pensionable emoluments, the provisions of the appropriate law relating to the deter-

mination of the average of annual pensionable emoluments for the purposes of pension shall be applied; and, in the case of officers to whom the Oversea Superannuation Scheme Regulations apply, in determining the average of such pensionable emoluments, the provisions of the Pensions Ordinance of North Borneo relating to the determination of the average of annual pensionable emoluments for the purposes of pension shall be applied.

(3) If any of the provisions of this paragraph becomes applicable to any entitled officer, his compensation shall be re-assessed accordingly and paid in accordance with paragraph 3 of this Schedule and if the amount of compensation he has already received under that paragraph exceeds the amount of compensation to which he is entitled under the re-assessment the excess shall forthwith become repayable, but in any such case any interest received on account of the excess shall not be repayable.

Disciplinary proceedings and dismissal.

14. (1) When disciplinary proceedings are taken, or are about to be taken, against any person who is serving as an entitled officer and those proceedings might lead to his dismissal, the payment of compensation under this Schedule and interest thereon shall be withheld pending the determination of those proceedings.

(2) Where any person who is serving as an entitled officer is dismissed, any compensation that he has not already received may, with the approval of the Public Service Commission, be withheld.

Place of payment and rate of exchange.

15. Any compensation or gratuity payable under this Schedule to an officer or to his personal representatives or dependants shall be paid, in accordance with any request made from time to time by such officer, his personal representatives or his dependants, as the case may be, in any of the following countries—

(*a*) in the United Kingdom;

(*b*) in any of the territories which will comprise the Federation of Malaysia;

(*c*) in the territory from which the officer was recruited or where he intends to reside;

(*d*) in the case of payment to the personal representatives of an officer or his dependants, in the territory in which the personal representatives or the dependants, as the case may be, reside; or

(*e*) in such territory as the officer or his personal representatives or dependants may, with the concurrence of the State Secretary, select,

in the currency of the territory in which payment is to be made; and, where payment is to be made in a territory other than a territory included in the Federation, the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the compensation or gratuity as calculated at the official rate of exchange prevailing on the operative date.

Right to opt for abolition terms.

16. (1) An entitled officer may at his option (such option to be exercised within three months of the operative date or, in the case of an officer who was not an entitled officer on the operative date, within three months of the date on which he became an entitled officer) become an officer to whom this paragraph applies.

(2) An officer to whom this paragraph applies shall not be entitled to compensation under this Schedule or be granted a pension or gratuity under this Schedule but, subject to the provisions of paragraph 17 of this Schedule may, on his retirement under this Schedule, be granted such benefits as may be granted under the appropriate law to an officer whose office has been abolished.

(3) An officer to whom this paragraph applies shall repay the amount of any compensation that may have been paid to him.

17. The provisions of the appropriate law shall, subject to the provisions of this Schedule, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law. Application of appropriate law.

18. Any compensation, gratuity or disturbance grant payable under any of the provisions of this Schedule or the Schedule to the Sarawak (Compensation and Retiring Benefits) Order in Council 1963 shall be exempt from tax under any law in force in North Borneo relating to the taxation of incomes. Exemption from tax.

19. Any option exercisable by any person for the purposes of this Schedule— Exercise of option.

(*a*) shall be irrevocable after the end of the period within which it is to be exercised;

(*b*) shall be exercised by notice in writing to the appropriate authority;

(*c*) shall be deemed to have been exercised on the date on which the notice is received:

Provided that the appropriate authority may, if it thinks fit, generally or in respect of a particular person and subject or not to conditions, extend the period for the exercise of an option.

20. Any compensation or disturbance grant payable under any of the provisions of this Schedule shall be a charge on and paid out of the Consolidated Fund or, as the case may require, the revenues and other funds of North Borneo. Compensation charged on Consolidated Fund.

21. If the Government of the United Kingdom, the Government of the Federation and the Government of Sabah agree that, in their application to any entitled officer, the foregoing provisions of this Schedule shall have effect subject to modifications or exceptions, being modifications or exceptions which do not cause the provisions of this Schedule to be less favourable to that officer, then the provisions of this Schedule shall have effect accordingly. Modified application of Schedule.

ANNEX

Instructions for obtaining the appropriate factor from Table I

I. Read off from the table the factors for the officer's age at his last birthday and his completed years of service.

II. Read off from the table the factor for ten years' service and the officer's age in years and completed months by interpolation arithmetically.

III. Divide II by 120 and multiply the result by the number of completed months of service, not exceeding 120.

IV. The greater of I and III, adjusted to the nearest second decimal place (when the third decimal place is 5 exactly take the next highest second place), is the factor required.

Instructions for obtaining the appropriate factor from Table II

I. Read off from the table the factor for the officer's age at his last birthday.

II. Read off from the table the factor for the officer's age in years and completed months by interpolation arithmetically.

III. The greater of I and II, adjusted to the nearest second decimal place (when the third decimal place is 5 exactly take the next highest second place), is the factor required.

Instructions for obtaining the appropriate factor from Tables III and IV

I. The factor required is obtained by reading off from the table the factor for the officer's age in years and completed months by interpolation arithmetically, and adjusting to the nearest second decimal place (when the third decimal place is 5 exactly take the next highest second place).

TABLE I

The Schedule, paragraph 2

Age of officer	Factor when length of service is							
	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 years or more
21	·16							
22	·18	·24						
23	·21	·28	·34					
24	·23	·31	·39	·47				
25	·26	·35	·44	·53	·62			
26	·30	·40	·50	·59	·69	·79		
27	·33	·44	·56	·67	·78	·89	1·00	
28	·38	·50	·63	·76	·88	1·01	1·13	1·26
29	·44	·58	·72	·87	1·02	1·16	1·30	1·45
30	·51	·68	·85	1·02	1·19	1·36	1·53	1·70
31	·60	·80	1·00	1·21	1·41	1·61	1·81	2·01
32	·70	·94	1·18	1·41	1·64	1·88	2·12	2·35
33	·81	1·08	1·36	1·63	1·90	2·17	2·44	2·71
34	·92	1·23	1·54	1·84	2·15	2·46	2·76	3·07
35	1·02	1·36	1·70	2·05	2·39	2·73	3·07	3·41
36	1·11	1·48	1·86	2·23	2·60	2·97	3·34	3·71
37	1·19	1·58	1·98	2·38	2·77	3·17	3·56	3·96
38	1·24	1·66	2·08	2·49	2·90	3·32	3·74	4·15
39	1·28	1·70	2·13	2·56	2·98	3·41	3·83	4·26
40	1·29	1·72	2·15	2·58	3·01	3·44	3·87	4·30
41	1·28	1·71	2·14	2·57	3·00	3·42	3·85	4·28
42	1·26	1·68	2·10	2·51	2·93	3·35	3·77	4·19
43	1·21	1·62	2·02	2·42	2·83	3·23	3·64	4·04
44	1·15	1·54	1·92	2·30	2·69	3·07	3·46	3·84
45	1·08	1·44	1·80	2·16	2·52	2·88	3·24	3·60
46	1·00	1·33	1·66	2·00	2·33	2·66	3·00	3·33
47	·91	1·22	1·52	1·82	2·13	2·43	2·74	3·04
48	·82	1·10	1·37	1·64	1·92	2·19	2·47	2·74
49	·73	·98	1·22	1·46	1·71	1·95	2·20	2·44
50	·64	·85	1·06	1·28	1·49	1·70	1·92	2·13
51	·54	·72	·90	1·07	1·25	1·43	1·61	1·79
52	·43	·57	·71	·85	·99	1·14	1·28	1·42
53	·30	·40	·50	·60	·70	·80	·90	1·00
54	·15	·20	·25	·30	·35	·40	·45	·50
55 or more ...	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil

TABLE II

The Schedule, paragraph 2

Age of judge	*Factor where length of service is 10 years or more*	*Age of judge*	*Factor where length of service is 10 years or more*
40	3·96	55	2·50
41	4·15	56	2·27
42	4·26	57	2·04
43	4·30	58	1·76
44	4·28	59	1·42
45	4·22	60	1·00
46	4·13	61	·50
47	4·02	62 or over	Nil
48	3·89		
49	3·74		
50	3·57		
51	3·38		
52	3·17		
53	2·95		
54	2·73		

TABLE III

The Schedule, paragraphs 8 and 9

Table showing the lump sum to be paid for the commutation of each £1 p.a. of pension

Age of Officer	*Factor*	*Age of Officer*	*Factor*
25	17·08	40	15·07
26	16·97	41	14·90
27	16·86	42	14·73
28	16·74	43	14·55
29	16·62	44	14·36
30	16·50	45	14·17
31	16·38	46	13·97
32	16·25	47	13·76
33	16·12	48	13·54
34	15·98	49	13·32
35	15·84	50	13·08
36	15·70	51	12·84
37	15·55	52	12·59
38	15·40	53	12·50
39	15·24	54	12·50

TABLE IV

The Schedule, paragraph 12

Age	*Factor*
30 and below	5·00
31	5·08
32	5·21
33	5·47
34	5·90
35	6·56
36	7·44
37	8·10
38	8·53
39	8·79
40	8·92
41	9·00
42	8·92
43	8·77
44	8·40
45	7·61
46	6·39
47	5·60
48	5·23
49	5·08
50 and above	5·00

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision for compensation and retiring benefits for certain officers in the public service of North Borneo.

ANNEX H

FORM OF PUBLIC OFFICERS AGREEMENTS IN RESPECT OF SABAH AND SARAWAK

[Note : " Sabah " or " Sarawak " should be deleted as appropriate in each Agreement.]

Her Majesty's Government in the United Kingdom of the one part and the Government of Malaysia, having obtained the consent of the Government of Sabah/Sarawak to their entering into this Agreement in so far as its terms may affect the responsibilities or interests of the Government of Sabah/Sarawak, of the other part, have agreed as follows : —

Interpretation.

1. (1) In this Agreement—

(*a*) " the appointed day " means Malaysia Day;

(*b*) " conditions of service " means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an officer relating to his tenure of office, disciplinary control, salary (including salary scales), pensionable allowances and passages ;

(*c*) " officer " means an officer whose conditions of service before the appointed day included an entitlement to a free passage from Sabah/Sarawak for the purpose of leave of absence upon the completion of a tour of duty and who was before that day the substantive holder of a pensionable office in the public service of Sabah/Sarawak, being a person—

(i) who was selected for or offered appointment to the public service of Sabah/Sarawak by a Secretary of State ; or

(ii) whose appointment to the public service of Sabah/ Sarawak was approved by a Secretary of State ; or

(iii) who had entered into an agreement with the Crown Agents for Oversea Governments and Administrations to serve in the public service of Sabah/Sarawak ; or

(iv) who (although not an officer falling within heads (i), (ii) or (iii) of this sub-paragraph) is or has been a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary, or has been a member of a former Colonial Unified Service, or is or was a designated officer for the purposes of the Overseas Service (North Borneo)/ (Sarawak) Agreement 1961 ; or

(v) who prior to the date on which Sabah/Sarawak became a colony, was recruited to a post in the public service of Sabah/Sarawak for which, after Sabah/Sarawak became

a colony, the normal channel of recruitment was either the Colonial Office or the Crown Agents for Oversea Governments and Administrations;

(*d*) " pension " means any pension, gratuity, compensation and interest thereon, retiring allowance or other like benefit payable by the Government of Malaysia or by the Government of Sabah/Sarawak to or in respect of any officer or to the widow or child of any officer or their legal personal representatives, including any increase of pension, and any contributions repayable and interest payable to any officer under any law providing for payment of pensions to widows and children of officer.

(2) " Substantive holder " in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in the office for a specified term under a contract.

(3) Reference in this Agreement to Sabah/Sarawak shall, in relation to any period prior to the appointed day, mean the former colony or protected state of North Borneo/Sarawak.

Conditions of Service.

2. The conditions of service applicable to an officer who continues to be the substantive holder of a pensionable office in the public service of Sabah/Sarawak on or after the appointed day and to an officer who before the appointed day was the substantive holder of a pensionable office in the public service of Sabah/Sarawak and on or after the appointed day transfers or is seconded to the public service of the Government of Malaysia shall not be less favourable than those which were applicable to him immediately before the appointed day.

Retirement and Pensions.

3. The entitlement to retire and the eligibility to receive a pension of any officer who continues to be the substantive holder of a pensionable office in the public service of Sabah/Sarawak on or after the appointed day and of an officer who before the appointed day was the substantive holder of a pensionable office in the public service of Sabah/Sarawak and on or after the appointed day transfers or is seconded to the public service of the Government of Malaysia or of the widow, children, dependants or personal representatives of such an officer shall be provided for in the laws, regulations and administrative directions in force immediately before the appointed day or by such other laws, regulations and administrative directions made thereafter as are not less favourable; and pensions shall be granted and paid to such officers and other persons accordingly.

Preservation of Pensions.

4. The pension of any officer who has ceased to be the substantive holder of a pensionable office in the public service of Sabah/Sarawak before the appointed day, or of the widow, children, dependants or personal representatives of any such officer shall be granted and paid, or if granted before that date shall continue to be paid, in accordance with the laws, regulations and administrative directions governing those pensions immediately before the appointed day or in accordance with such other laws, regulations and administrative directions made thereafter that are not less favourable.

Payment of Pensions.

5. (1) A pension shall, at the option of the person to whom it is payable, be paid either in Malaysia or in the country in which he is residing or in any other country to which he had an entitlement to a free passage for the purpose of leave of absence upon the completion of a tour of duty as may from time to time be requested by him in writing.

(2) An option exercised under paragraph (1) of this Article—

(*a*) may be revoked at any time and a fresh option be exercised ;

(*b*) shall be exercised or revoked by notice in writing ;

(*c*) shall take effect on the first day of the next succeeding month, or at the person's election on the first day of any subsequent month after the date on which the notice is received by the State Secretary.

(3) Pensions payable outside Malaysia after the day on which this Agreement comes into operation shall be paid in the currency of the country in which payment is to be made, and the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the pension calculated at the rate of two shillings and four pence to one Malayan dollar notwithstanding any variation in that rate ;

Provided that, if there is a general revision of salaries consequent upon the revaluation of the currency in use in Malaysia as a result of which the pensionable emoluments of an officer may be increased, that officer may be required to agree that any pension that may be granted to him shall be calculated at the rate of exchange prevailing at the date of the revision of salaries before he is granted the benefit of the increase of pensionable emoluments.

(4) Where the person to whom a pension is payable is a minor, his or her lawful guardian may exercise the option conferred by this paragraph.

Increase of Pensions.

6. The Government of Malaysia undertakes that, in any future schemes to increase pensions payable to any class or description of pensioner, there shall be no differentiation between officers or the widows or children of officers and other pensioners.

Options.

7. For the purposes of this Agreement, in so far as the laws, regulations or administrative directions applicable to the grant of a pension or to other conditions of service depend on the option of the person to or in respect of whom the pension is granted or is to be granted, or of the officer to whom the conditions of service apply, the laws, regulations or administrative directions for which such person or officer opts shall be taken to be more favourable to him than any other laws, regulation or administrative direction for which he might have opted.

Officers in H.M.O.C.S. and H.M.O.J.

8. (1) Officers who are members of Her Majesty's Overseas Civil Service or of Her Majesty's Overseas Judiciary shall continue to be eligible for consideration by Her Majesty's Government in the United Kingdom

for transfer or promotion to employment in the public service of some other territory.

(2) The Government of Sabah/Sarawak and the Government of Malaysia, shall comply with any reasonable request that may at any time be made by Her Majesty's Government in the United Kingdom for the release of such an officer for transfer or promotion in pursuance of paragraph (1) of this Article and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted.

(3) Before he is released, such an officer shall be required to make arrangements for the repayment of any compensation or instalments of compensation (but not of any interest paid on outstanding instalments) he may be required to repay in accordance with the compensation and retiring benefits scheme under which the compensation or instalments of compensation were paid to him, such arrangements to be to the satisfaction of the Government to which the repayment is to be made.

Appeals against decisions affecting pension or compensation.

9. Section 85 of the Malaysia Act, which provides for appeals by officers against decisions of disciplinary authorities affecting pension or compensation, shall not be repealed or amended to the prejudice of the interests of any officer.

Citation and commencement.

10. This agreement may be cited as the Public Officers (Sabah)/(Sarawak) Agreement, 1963, and shall come into operation on the date of signature.

Done in duplicate at this day of 19

Signed on behalf of Her Majesty's Government in the United Kingdom.

Signed on behalf of the Government of Malaysia.

ANNEX I

FORM OF PUBLIC OFFICERS AGREEMENT IN RESPECT OF SINGAPORE

Her Majesty's Government in the United Kingdom of the one part and the Government of Malaysia having obtained the consent of the Government of Singapore to their entering into this Agreement in so far as its terms may affect the responsibilities or interests of the Government of Singapore, of the other part, have agreed as follows :—

Interpretation.

1. (1) In this Agreement—

(*a*) " the appointed day " means Malaysia Day ;

(*b*) " conditions of service " means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an officer relating to his tenure of office, disciplinary control, salary (including salary scales), pensionable allowances and passages ;

(*c*) " officer " means an officer whose conditions of service before the appointed day included an entitlement to free passages from Singapore to a country outside Malaysia for the purpose of leave of absence upon the completion of a tour of duty and who was before that day the substantive holder of a pensionable office in the Public Service of Singapore, being a person—

(i) who was selected for or offered appointment to the Public Service of Singapore by a Secretary of State ; or

(ii) whose appointment to the Public Service of Singapore was approved by a Secretary of State ; or

(iii) who had entered into an agreement with the Crown Agents for Oversea Governments and Administrations to serve in the Public Service of Singapore ; or

(iv) who (although not an officer falling within heads (i), (ii) or (iii) of this sub-paragraph) is or has been a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary, or has been a member of a former Colonial Unified Service, or is or was a designated officer for the purposes of the Overseas Service (Singapore) Agreement 1961.

(*d*) " pension " means any pension, gratuity, compensation and interest thereon, retiring allowance or other like benefit payable by the Government of Malaysia or by the Government of Singapore to or in respect of any officer or to the widow or child of any officer or their legal personal representatives, including any increase of pension, and any contributions

repayable and interest payable to any officer under any law providing for payment of pensions to widows and children of officers.

(2) " Substantive holder " in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in the office for a specified term under a contract.

2. The conditions of service applicable to an officer who continues to be a substantive holder of a pensionable office in the Public Service of Singapore on or after the appointed day and to an officer who before the appointed day was the substantive holder of a pensionable office in the Public Service of Singapore and on or after the appointed day transfers or is seconded to the Public Service of Malaysia shall not be less favourable than those which were applicable to him immediately before the appointed day. Conditions of Service.

3. The entitlement to retire and the eligibility to receive a pension of any officer who continues to be the substantive holder of a pensionable office in the Public Service of Singapore on or after the appointed day and of an officer who before the appointed day was the substantive holder of a pensionable office in the Public Service of Singapore and on or after the appointed day transfers or is seconded to the Public Service of Malaysia or of the widow, children, dependants or personal representatives of such an officer shall be as provided for in the laws, regulations and administrative directions in force immediately before the appointed day or by such other laws, regulations and administrative directions made thereafter as are not less favourable; and pensions shall be granted and paid to such officers and other persons accordingly. Retirement and Pensions.

4. The pension of any officer who has ceased to be the substantive holder of a pensionable office in the Public Service of Singapore before the appointed day, or of the widow, children, dependants or personal representatives of any such officer shall be granted and paid, or if granted before that date shall continue to be paid, in accordance with the laws, regulations and administrative directions governing those pensions immediately before the appointed day or in accordance with such other laws, regulations and administrative directions made thereafter that are not less favourable. Preservation of Pensions.

5. (1) A pension shall at the option of the person to whom it is payable, be paid either in Malaysia or in the country in which he is residing or in any other country to which he had an entitlement to a free passage for the purpose of leave of absence upon the completion of a tour of duty as may from time to time be requested by him in writing. Payment of Pensions.

(2) An option exercised under paragraph (1) of this Article—

(*a*) may be revoked at any time and a fresh option be exercised ;

(*b*) shall be exercised or revoked by notice in writing ;

(c) shall take effect on the first day of the next succeeding month, or at the person's election on the first day of any subsequent month after the date on which the notice is received by the Permanent Secretary to the Treasury.

(3) Pensions payable outside Malaysia after the day on which this Agreement comes into operation shall be paid in the currency of the country in which payment is to be made, and the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of the payment, the amount in sterling of the pension calculated at the rate of two shillings and four pence to one Malayan dollar notwithstanding any variation in that rate;

Provided that, if there is a general revision of salaries consequent upon the revaluation of the currency in use in Malaysia as a result of which the pensionable emoluments of an officer may be increased, that officer may be required to agree that any pension that may be granted to him shall be calculated at the rate of exchange prevailing at the date of the revision of salaries before he is granted the benefit of the increase of pensionable emoluments.

(4) Where the person to whom a pension is payable is a minor, his or her lawful guardian may exercise the option conferred by this paragraph.

Increase of Pensions.

6. The Government of Malaysia undertakes that, in any future schemes to increase pensions payable to any class or description of pensioner, there shall be no differentiation between officers or the widows or children of officers and other pensioners.

Options.

7. For the purposes of this Agreement, in so far as the laws, regulations or administrative directions applicable to the grant of a pension or to other conditions of service depend on the option of the person to or in respect of whom the pension is granted or is to be granted, or of the officer to whom the conditions of service apply, the laws, regulations or administrative directions for which such person or officer opts shall be taken to be more favourable to him than any other laws, regulation or administrative direction for which he might have opted.

Officers in H.M.O.C.S. and H.M.O.J.

8. (1) Officers who are members of Her Majesty's Overseas Civil Service or of Her Majesty's Overseas Judiciary shall continue to be eligible for consideration by Her Majesty's Government in the United Kingdom for transfer or promotion to employment in the Public Service of some other territory.

(2) The Government of Singapore and the Government of Malaysia shall comply with any reasonable request that may at any time be made by Her Majesty's Government in the United Kingdom for the release of such an officer for transfer or promotion in pursuance of paragraph (1) of this Article and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted.

(3) Before he is released, such an officer shall be required to make arrangements for the repayment of any compensation or instalments of compensation he may be required to repay in accordance with the compensation and retiring benefits scheme under which the compensation or instalments of compensation were paid to him, such arrangements to be to the satisfaction of the Government to which the repayment is to be made.

9. This Agreement may be cited as the Public Officers (Singapore) Agreement, 1963, and shall come into operation on the date of signature. Citation and commencement.

Done in duplicate at this day of 19

Signed on behalf of Her Majesty's Government in the United Kingdom.

Signed on behalf of the Government of Malaysia.

ANNEX J

AGREEMENT BETWEEN THE GOVERNMENTS OF THE FEDERATION OF MALAYA AND SINGAPORE ON COMMON MARKET AND FINANCIAL ARRANGEMENTS

Common Market.

1. (1) The Federal Government, in order to facilitate the maximum practicable degree of economic integration of the territories of Malaysia, while taking account of the interests of the entrepot trade of Singapore, Penang and Labuan and those of existing industries in Malaysia, and the need to ensure a balanced development of these territories, shall progressively establish a common market in Malaysia for all goods or products produced, manufactured or assembled in significant quantities in Malaysia, with the exception of goods and products of which the principal terminal markets lie outside Malaysia.

1. (2) Where the same protective duties or revenue duties are applicable throughout Malaysia in the case of any class of goods or products, then no tariff or trade barrier or trade restriction or discrimination shall be applied to such goods or products in regard to their circulation throughout Malaysia.

1. (3) The provisions of the preceding sub-paragraph shall not be construed to prevent the imposition of—

(*a*) any special production tax on producers in a low-tariff State which would offset the cost inequalities arising from the differential import duties ; or

(*b*) any export duty or export restriction on primary products where the principal terminal markets lie outside Malaysia.

Tariff Advisory Board.

2. (1) The Malayan Government shall take steps to establish by law before Malaysia Day a Tariff Advisory Board to advise the Federal Government generally on the establishment of the common market as defined in paragraph 1 above, including the establishment and maintenance of a common external tariff for the protection (where required) of goods for which there is to be a common market.

2. (2) Appointments to the Board shall be made by the Federal Government but until five years from Malaysia Day the appointment of the Chairman shall require the concurrence of the Singapore Government ; the first Chairman shall be appointed as soon as possible after the conclusion of this Agreement. During the first five years, there shall be three Deputy Chairmen, one of whom shall be nominated by the Singapore Government. In appointing members of the Board regard shall be had to the areas and interests involved.

2. (3) The Board shall sit in public to receive evidence except where the Board deems it necessary to receive evidence *in camera*. Within six months after their receipt the Federal Government shall publish the reports and recommendations of the Board other than those of which publication is not in the public interest.

3. (1) For the purposes of this Agreement a protective duty shall be defined as a duty which is levied in respect of a class of goods or products which are or are to be produced, manufactured, assembled or prepared and used or consumed in the Federation in significant quantities, or which are used or consumed in the production, manufacture, assembly or preparation in the Federation of goods or products of such a class or which are of a description providing a substitute for or alternative to goods or products of such a class. All other duties shall be defined as revenue duties. A duty shall be regarded as imposed in Singapore, if it is imposed on goods imported into Singapore for use or consumption there and not otherwise. Protective Duties.

3. (2) Except in cases where it deems preventive action to be urgently necessary, the Federal Government shall not in Singapore make any class of goods or products subject to a protective duty or vary any protective duty before receiving the advice of the Tariff Advisory Board. In cases where a duty has been imposed or varied without prior reference to the Tariff Advisory Board, the Federal Government shall seek the advice of the Board thereon as soon as practicable thereafter.

3. (3) For a period of 5 years from Malaysia Day the Singapore Government shall have the right to require a delay not exceeding 12 months in the imposition in Singapore of any protective duty on the grounds that the duty would significantly prejudice the entrepot trade. In any enquiry by the Tariff Advisory Board on a proposal to impose such a duty, the Singapore Government shall inform the Board of any item on which it may wish, in the interests of the entrepot trade, to avail itself of this option. In regard to such items, the Tariff Advisory Board shall consider the possibility of anticipatory action in Singapore and shall, if necessary, include in its recommendations proposals to prevent such action. During the period of delay, the Singapore Government shall not grant any licence, concession or inducement to any industry which may be affected by the proposed protective duty without the concurrence of the Federal Government.

3. (4) The Tariff Advisory Board shall be required within six months after Malaysia Day to make its first report as to what protective duties should be imposed. For this purpose it shall consider any proposals made to it by the Federal Government or a State Government.

4. (1) In formulating its policy relating to the harmonisation of revenue duties, the Federal Government shall pay due regard to any representations made by the Singapore Government on the economic, financial and social implications of such harmonisation. Revenue Duties.

4. (2) Revenue duties in force in Singapore on 1st July, 1963, and the corresponding duties in force in the Federation of Malaya shall be harmonised as soon as practicable.

4. (3) Until 31st December, 1968, no revenue duty shall, except at the request or with the consent of the Singapore Government, be imposed in Singapore by the Federal Government in respect of any class of goods or products not chargeable with such a duty on 1st July, 1963. Such consent shall not be withheld except on the grounds that the duty would significantly prejudice the entrepot trade of Singapore.

4. (4) Before 31st December, 1968, the Tariff Advisory Board shall review the revenue duties in force at that time in Singapore and in the remainder of Malaysia and shall make recommendations regarding the amendment of such duties or the imposition of additional duties. As from 1st January, 1969, the Singapore Government shall be entitled to withhold its consent to the imposition in Singapore of any revenue duty in respect of any goods or products referred to in sub-paragraph (3) for any period up to 31st December, 1975, on the grounds that it would significantly prejudice the entrepot trade, and, in the absence of such consent, no such duty shall be imposed provided that the Singapore Government shall pay to the Federal Government annually compensation equal to the loss of revenue suffered by the Federal Government as a result of the withholding of such consent.

4. (5) For the purposes of this agreement, the entrepot trade of Singapore means trade in goods and products imported into Singapore from outside Malaysia and primary products imported into Singapore from other parts of Malaysia, which goods or products, whether further processed or not, are subsequently re-exported from Singapore to destinations outside Malaysia.

Tax Collection.

5. Subject to the provisions of the Annex to this Agreement, executive authority in respect of the collection in Singapore of customs duties and excise and income tax shall be delegated to the Singapore Government. The Federal Government may revoke this authority if the Singapore Government fails to comply with any direction properly given to it by the Federal Government for the collection or protection of these taxes or shows itself unwilling or unable to discharge these functions efficiently. This authority may extend to customs duties and other charges collected in Singapore on goods exported from or to be imported into Malaysia outside Singapore.

Division of Revenue.

6. (1) All revenues collected in Singapore, with the exceptions specified below, shall be paid into a separate fund in a branch of the Central Bank to be established in Singapore and the fund shall be divided between the two Governments and paid to them at least once in every year, in the proportion of 60 per cent. to the Singapore Government and 40 per cent. to the Federal Government. The exceptions are—

(*a*) the revenues specified in Part III of the Tenth Schedule to the Federal Constitution, including property tax in lieu of rates (to be paid into the State Consolidated Fund);

(*b*) customs duties and other charges (including excise not in force at the date of this Agreement and any production tax imposed in respect of goods to which a protective duty is

applicable) collected in Singapore on goods to be exported from or imported into Malaysia outside Singapore (to be paid into the Federal Consolidated Fund);

(c) income tax collected in Singapore and attributable to income derived from the States of Malaya (to be paid into the Federal Consolidated Fund).

6. (2) 60 per cent. of income tax collected in the States of Malaya but attributable to income derived from Singapore shall be paid to the Singapore Government.

6. (3) Income tax attributable to income derived from Singapore and collected by an Agent outside Malaysia shall be paid into the separate fund referred to in paragraph 6(1) above.

6. (4) From the beginning of 1964 paragraphs 6(1)(c) and 6(2) shall apply as if references to the States of Malaya included references to the Borneo States.

6. (5) The provisions of Article 109 and Clauses (3), (3A) and (4) of Article 110 of the Federal Constitution shall not apply in relation to Singapore.

Federal Projects in Singapore.

7. The Singapore Government shall pay to the Federal Government the cost of capital development of Federal projects in Singapore other than projects for defence and internal security. The two Governments shall agree together on projects to be covered by this paragraph which do not provide predominantly local services.

Financial Review.

8. The arrangements specified in paragraphs 6 and 7 above shall remain in operation until 31st December, 1964. The two Governments shall then review these arrangements and shall decide upon any amendments to be made to them in respect of the two year period commencing 1st January, 1965. There shall be a similar review in respect of each subsequent period of two years. In default of agreement between the two Governments, any issue in dispute shall be referred to an independent assessor appointed jointly by the two Governments. In default of agreement between the two Governments on the choice of an assessor, the Lord President of the Federal Court, after considering the views of both governments, shall appoint an assessor from among persons recommended by the International Bank for Reconstruction and Development as being persons enjoying an international reputation in finance. The recommendations of the assessor shall be binding on both governments. Such reviews shall have regard to all relevant factors.

Finance for Borneo Territories.

9. To assist development in the Borneo territories the Singapore Government shall make available to the Federal Government:

(a) a 15-year loan of $100 million, bearing interest at current market rates in the Federation, subject to the proviso that the loan shall be free of interest during the first 5 years after drawing and that if, having regard to the economic growth

in Singapore, it is so recommended in the financial review in respect of the period of two years commencing 1st January, 1969 under paragraph 8 above, the loan shall be free of interest for a further period of 5 years; and

(*b*) a 15-year loan of $50 million bearing interest at current market rates in the Federation.

The above loans shall be drawn in equal annual instalments over a period of 5 years, commencing in 1964.

Disputes as to interpretation or application of this Agreement.

10. Any dispute between the Federal Government and the Singapore Government as to the interpretation or application of this Agreement may be referred by either Government to the Federal Court for determination by that Court in exercise of the jurisdiction conferred upon it by Article 128 of the Federal Constitution.

ANNEX TO ANNEX J

PART I

CUSTOMS AND EXCISE

Subject to the provisions of Paragraphs 1-4 of this agreement the following powers under the Singapore Customs Ordinance are reserved to the Federal Government—

(1) The power to fix the rate of tax, duty or excise on any class of goods;

(2) The power to fix by order the value of goods for duty or excise purposes;

(3) The power to grant exemptions or refunds in respect of duties or excise other than in particular cases where the duty or excise is less than $2,000 in any one instance;

(4) The power to make regulations both in relation to Customs and Excise.

2. The Federal Government will also have the following powers:—

(1) The power to appoint Federal officers to inspect the Customs and Excise Department, Singapore. Reports would be submitted to the Federal Government direct with a copy to the Singapore Government and the inspecting officers would have the right of access to all documents and records of the Department.

(2) The right of the Federal Minister responsible for Customs to issue directions to the State Government which he considers necessary to ensure the effective collection or protection of Federal customs duties and/or excise.

PART II

INCOME TAX

Powers to be exercised by the Federal Government in relation to collection

(the references are to the *Singapore Income Tax Ordinance*)

Section 3A

The power of the Minister to give the Comptroller-General directions of a general character.

Section 13(2)

The power of the Minister to provide that interest on any loan charged on the public revenue of Singapore or the Federation shall be exempt from tax.

Section 106(1)

(1) The power to vary or revoke the whole or any part of any schedule to the Ordinance.

(2) The power to exempt any person or class of persons from all or any of the provisions of the Ordinance.

Powers to be varied

Section 7

The powers of the Malayan Board of Income Tax as at 4th June, 1963, to be retained with the deletion of subsection (3).

Section 19(2)

The Comptroller's powers to vary the rate of capital allowances prescribed for machinery and plant should be transferred to the Comptroller-General

Pioneer Industries Ordinance

Certificates granted by Singapore to be subject to approval of the Federal Minister of Finance.

Industrial Expansion (Relief from Income Tax Ordinance 1959)

Section 5

Orders made by Singapore to be subject to approval of the Federal Minister of Finance.

Income Tax Bills

The powers conferred on the Minister or the Comptroller by any Income Tax Bills introduced between the 1st June, 1963, and the date of formal acceptance of the Heads of Terms of Agreement and enacted prior to Malaysia Day.

Between the date of formal acceptance of the Heads of Terms of Agreement and Malaysia Day the Singapore Government should not introduce any new legislation with respect to matters the subject of that Agreement.

Powers to be retained

Section 4(2)

The Income Tax Department of Singapore shall be subject to detailed inspection by the Comptroller-General in accordance with the existing provisions of Section 4(2) which require the Comptroller and his officers to be subject to the supervision and direction of the Comptroller-General.

Powers to be reserved

The right of the Federal Minister responsible for Income Tax to issue directions to the State Governments which he considers necessary to ensure the effective collection or protection of Income Tax shall be recognised.

ANNEX K

ARRANGEMENTS WITH RESPECT TO BROADCASTING AND TELEVISION IN SINGAPORE

The legislative power in respect of broadcasting and television shall be Federal. However, the Singapore Government shall be responsible for administration and day to day programmes within Singapore. The Federation shall delegate to Singapore such powers, legislative or executive, as are needed to enable the Singapore Government to carry out its responsibilities for administration and day to day programmes and shall make available to Singapore radio frequencies and channels for the transmission of radio and television programmes.

The Federal Government shall have the right to issue to the Singapore Government any directions necessary to ensure the implementation of the overall policy of the Federal Government. Any overall policy of the Federal Government shall be applied throughout the Federation unless in the opinion of the Federal Government it would be contrary to the national interest.

In accordance with items 3 and 6 of Part III of the Tenth Schedule to the Federal Constitution all licence and advertising fees from broadcasting and television in Singapore shall be State revenue.

AGREEMENT[1] AMENDING THE AGREEMENT OF 9 JULY 1963[2] BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, THE FEDERATION OF MALAYA, NORTH BORNEO, SARAWAK AND SINGAPORE RELATING TO MALAYSIA

It is hereby agreed that in Article II of the Agreement relating to Malaysia concluded in London on the ninth day of July nineteen hundred and sixty three,[2] the date " 16th September " shall be substituted for the date " 31st August " and that the Malaysia Act of the Parliament of the Federation of Malaya shall, with any consequential amendments, come into force on 16th September, 1963.

For the United Kingdom:

DUNCAN SANDYS

For the Federation of Malaya:

[ABDUL RAZAK][3]

For North Borneo:

D. A. STEPHENS

For Sarawak:

[S. K. NINGKAN]

For Singapore:

[GOH KENG SWEE]
11th Sept. 1963

Singapore, 28th August, 1963.

---

[1] Came into force on 11 September 1963, with effect from 16 September 1963, the date of entry into force of the Agreement of 9 July 1963, in accordance with its provisions.

[2] See p. 4 of this volume.

[3] *Note by the Secretariat:* The names in brackets are illegible on the certified true copy submitted for registration. The spelling of these names has been supplied by the Government of the United Kingdom.

Note du Secrétariat: Les noms entre crochets sont illisibles dans l'exemplaire certifié conforme soumis à l'enregistrement et ont été fournis par le Gouvernement du Royaume-Uni.